



TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 Fax: (207) 439-6806

WORKSHOP 6:00 P.M.

The Town Council will meet with the Rice Public Library Board of Directors and the Town Manager to discuss future plans for the library.

April 13, 2015

Council Chambers

Kittery Town Council
Regular Meeting
7:00 p.m.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes –3/24/15, 3/30/15, 4/6/15 Special and 3/23/15 Regular
8. Interviews for the Board of Appeals and Planning Board
9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.

a. (040215-1) The Kittery Town Council moves to abate the following taxes for Robert and Natalie Harris:

49-8	\$668.16
60-12C	\$ 59.36
66-2D	\$ 10.65
60-3A	\$147.64
66-2C	\$ 39.58
60-12B	\$ 3.05

and issue supplemental tax bills to Central Maine Power for the following parcels:

49-8-1	\$668.16
60-12C-1	\$ 59.35
66-2D-1	\$ 10.66
60-3A-1	\$147.63
66-2C-1	\$ 39.57
60-12D	\$ 19.79

b. (040215-2) The Kittery Town Council moves to review and adopt the proposed decision, order and findings of fact on 40 Old Post Road, Map 8 Lot 25 under the dangerous buildings statute.

10. PUBLIC HEARINGS

a. (040215-3) The Kittery Town Council moves to hold a public hearing on an application from Global Montello Group Corp., 800 South Street, Suite 800, Waltham, MA for a Victualer's License for Global Montello Group Corp., 286 Route 1.

b. (040215-4) The Kittery Town Council moves to hold a public hearing on proposed amendments to Section 2.14 Ordinances in general and 6.06 Council action on proposed budget, of the Kittery Town Charter, subject to approval at a Town referendum election to be held on June 9, 2015.

c. (040215-5) The Kittery Town Council moves to hold a public hearing and hereby ordains an ordinance authorizing a bond issue not to exceed \$1,300,000, to fund road infrastructure capital improvement projects, subject to approval at a Town referendum election to be held on June 9, 2015.

d. (040215-6) The Kittery Town Council moves to hold a public hearing and hereby ordains an ordinance authorizing a bond issue not to exceed \$958,015, to fund municipal facilities capital improvement projects, subject to approval at a Town referendum election to be held on June 9, 2015.

e. (040215-7) The Kittery Town Council moves to hold a public hearing and hereby ordains an ordinance authorizing a bond issue not to exceed \$821,817 to fund school facilities capital improvement projects, subject to approval at a Town referendum election to be held on June 9, 2015.

11. DISCUSSION

- a. Discussion by members of the public (three minutes per person)
- b. Response to public comment directed to a particular Councilor
- c. Chairperson's response to public comments

12. UNFINISHED BUSINESS

(030215-4) The Kittery Town Council moves to receive a report and recommendation from the Appointment Committee regarding Appointments to Boards and Committees and schedule a public hearing to amend Title 4 of the Kittery Town Code.

13. NEW BUSINESS

- a. Donations/gifts received for Council disposition

(040215-8) The Kittery Town Council moves to accept a donation in the amount of \$50.00 from Sarah O. Lewin for track use at the Kittery Community Center, and deposit said funds in account #1111-43320, Recreation Revenue.

b. (040215-9) The Kittery Town Council moves to give preliminary approval on the FY '16 School Budget and schedule a public hearing on May 11th to adopt the FY '16 School Budget and to schedule the Budget Validation Referendum for June 9th.

c. (040215-10) The Kittery Town Council moves to review and finalize wording on the Warrant Articles for the June 9, 2015 Town Meeting/Secret Ballot Election and make its recommendations on each article.

d. (040215-11) The Kittery Town Council moves to authorize the release of funds in the amount of \$10,000 from unassigned surplus and to appropriate said funds to be paid out of account #101740-68427 Expense Self-insurance Claims, to pay the deductible associated with the water damage claim #1 at the Kittery Community Center.

e. (040215-12) The Kittery Town Council moves to approve and sign a Business Card Resolution Form to increase the maximum credit card limit to \$40,000 to allow for adding new users and temporary increases if necessary.

f. (040215-13) The Kittery Town Council moves to nominate the Town Manager to serve on the Southern Maine Planning and Development Commission Executive Committee.

g. (040215-14) The Kittery Town Council moves to authorize the Rice Public Library to use the Fort Foster facility (baseball field) on Friday, June 26, 2015 from 8:00 p.m. to 10:00 p.m. to show an outdoor movie for the opening celebration of their Summer Reading Program.

h. (040215-15) The Kittery Town Council moves to resolve to petition M.D.O.T. with the Town of Eliot for a traffic light to be installed on Route 236 at the intersection of Bolt Hill Road.

i. (040215-16) The Kittery Town Council moves to approve the disbursement warrants.

j. (040215-17) The Kittery Town Council moves to schedule a public hearing in accordance with Section 6.09 (4) of the Kittery Town Charter to transfer appropriations between accounts for union and non-union increases for salaries/wages and benefits.

k. (040215-18) The Kittery Town Council moves to appoint Mark A. Drummond to the Port Authority until 8/31/16 to fill the unexpired term of Thomas Smith.

l. (040215-19) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Port Authority to interview David W. Chapman for his appointment to that board until 8/31/18 to fill the unexpired term of Dan Arbo.

m. (040215-20) The Kittery Town Council moves to endorse a proposal to allocate funding in York County's FY16 budget to apply for York County become a regional center for the EB-5 Immigrant Investment Program.

n. (040215-21) The Kittery Town Council moves to schedule a public hearing on a proposed amendment to Title 5 Section 5.10.4 Applicability.

14. COUNCILOR ISSUES OR COMMENT

15. COMMITTEE AND OTHER REPORTS

- a. Communications from the Chairperson
- b. Committee Reports

16. EXECUTIVE SESSION

17. ADJOURNMENT



TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

ncolbertpuff@kitteryme.org

Nancy Colbert Puff

Town Manager

Town Manager's Report to the Town Council

April 13, 2015

1. **Athletic Fields Master Plan** – The final meeting took place on April 8th, at 6:30 pm, at the Star Theater. It will be rebroadcast regularly on Channel 22. We expect to be working closely with the consulting team to review all of the input received and produce a final master plan report by June.
2. **Urban Compact/Route One Bypass** – DPW Commissioner spent time driving with DOT's Director of Community Services Peter Coughlan, and reviewed how the roads being proposed meet compact guidelines. Peter reported to Norm that he believed approximately .6 miles of the 2 mile-long stretch of the Bypass met the guidelines (despite our GIS mapping that indicates otherwise). However, the other areas in question (Route 1 North and a portion of Route 103), failed to meet the guideline. Peter was going to meet with his Commissioner to review this data. We are hopeful to work out a mutually-beneficial arrangement with DOT which may negate the need for action by the Legislature. Nevertheless, a public hearing before the Senate has been scheduled for April 14th at 1:30 pm on LD 437 "An Act To Ensure the Responsibility of the Department of Transportation for a Portion of U.S. Route 1 in York and for the U.S. Route 1 Bypass in Kittery."
3. **John Paul Jones Park Transfer** – I understand from Representative Deane Rykerson that LD 780 has been tabled, due to a question raised by a Legislator regarding whether the Bureau of Parks and Lands would be required to perform an evaluation of fair market value as part of the transfer process. The Representative is exploring if it is possible to get the bill back on track.
4. **FEMA Reimbursement** – According to our Emergency Management Liaison Sergeant Gary Eaton, it will take a few more weeks to compile an estimate of our anticipated request for reimbursement. Apparently FEMA has yet to establish a field office, and Sergeant Eaton understands that a single office will be responsible to handle the claims from five states.
5. **Department of Public Works (DPW) Pot Hole Status** – As requested by Councilor Spiller, following is a report on potholes throughout Town:
 - Kittery citizens have reported potholes 27 times this year. (March -2014 to March-2015) One was recorded during the winter of 2014 and five were recorded during the winter of 2015 and the remaining twenty one were called in throughout the year.
 - DPW staff has been patching town-wide 26 days throughout the winter so far this year (November-April). We used 127+- tons of hot mix and cold patch for pothole repairs during the 2013-2014 at a cost of \$13,009.76, and we have currently used 25 tons of hot mix and cold patch so far during the year of 2014-2015 at a cost of \$3,752.
 - The upcoming melting and rainy season will increase our usage and cost for this year. The town's pothole repair process changes with the seasons when the asphalt plant shuts down due the cold temperatures we no longer use hot mix and change over to cold patch. The preferred process would be to use hot mix over the cold patch. It has been proven that the repairs bond better and last longer when hot mix is used and the installation process is best on a sunny warm day without

water or ice on the roadway. The asphalt plant typically closes for the winter in November/December and re-opens in April/May.

- Citizens can report pot holes any time to the Public Works department in-person M-F 7:00-3:30 at 200 Rogers Road or by calling the office (207-439-0333). When the pot holes have been reported DPW will respond within 24 hours of the notification date. DPW's goal is "public safety" we try to address pot holes before, during and after the conditions/weather affect our roadways. When pot holes are evident one to two crews are assigned to address the issue.
 - In general, the main roadways are addressed first due to the high volume of and then residential roadways are addressed next.
6. **Road Inventory and Evaluation RFP** – We have selected the BETA Group to prepare our road inventory and management plan for a total contract cost of \$39,750. They are in the field performing inventory work this month.
 7. **Resource Recovery Baler Bid** – We received seven bids to provide the Town with a new baler. The bid summary, including trade-in pricing, follows. We continue to review the details of the submission to determine the lowest qualified bidder that conforms to our specifications.

	Bidder	Bid	Trade	Total
1	Recycling Mech 3	\$273,248	\$(15,000)	\$258,248
2	Recycling Mech 2	\$275,540	\$(15,000)	\$260,540
3	Excel	\$281,651	\$(20,000)	\$261,651
4	Recycling Mech 1	\$280,280	\$(15,000)	\$265,280
5	Alexandria	\$282,750	\$ (7,500)	\$275,250
6	Boston Baler	\$290,500	\$ (4,000)	\$286,500
7	ARE	\$310,630	\$(22,580)	\$288,050

8. **Kittery Community Center (KCC) Flood Damage Update** – The damage caused by the pipe burst incidents at the KCC is fully repaired, with the exception of the HVAC units, which await a recommended solution. We have received a recommendation that involves the introduction of glycol into the system alongside several other adjustments to the units to guard against another freeze. We are consulting with HVAC professionals to determine what alternates may exist, and to obtain cost estimates for the work. We will then be meeting again with the design team to determine a final design and funding plan to be implemented.
9. **KCC Coastal Home and Garden Show** – The KCC will be hosting, in conjunction with the Greater York Region Chamber of Commerce, a Home and Garden show on the weekend of May 2-3.
10. **Parks Arts Festival** – As some of you are aware, a recent article in the Portsmouth Herald indicates that the Prescott Park Arts Festival intends to address some of the on-going noise complaints in Portsmouth by directing the sound over the Piscataqua River. A concerned resident contacted me, as the productions can already be heard clearly in Kittery, and any increase in volume proposes to put us in the same position as the residents in Portsmouth for whom this change is being implemented.

I am meeting with the City and the Arts Festival representatives on Thursday (4/9) and should have a verbal report on Monday evening.

11. **Sewer Extension Project** – Work has commenced on the extension project, as Sargent Corporation is starting with its work in the area of Martin Road and Route 236. A complete schedule is posted on our web site in the news section. Residents are beginning to inquire about the eventual cost of the assessment, but we have been advising them that this cost cannot be determined until the project is complete and the Council determines that figure.

As always, if you have any questions or concerns prior to Monday's evening's meeting, please do not hesitate to contact me. Thank you.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Nancy Colbert Puff". The signature is fluid and cursive, with the first name "Nancy" being the most prominent.

Nancy Colbert Puff

UNAPPROVED MINUTES

March 23, 2015

Kittery Town Council
Special Meeting
Requested by Jeffrey Thomson, Chair

Council Chambers

1. CALL TO ORDER: Chairperson Thomson called the meeting to order at 6:00 p.m.
2. INTRODUCTORY: Chairperson Thomson read the introductory.
3. PLEDGE OF ALLEGIANCE: Chairperson Thomson led those present in the Pledge of Allegiance.
4. ROLL CALL: Answering the roll were Councilors Frank Dennett, Charles Denault, Jeffrey Pelletier, Russell White, Judy Spiller and Chairperson Jeffrey Thomson. Councilor Lemont arrived late.
5. EXECUTIVE SESSION:

a. (130215-1) The Kittery Town Council moves to go into executive session, with the Town Manager in accordance with 1 M.R.S. §405 (6) D, to discuss labor negotiations.

IT WAS MOVED BY CHAIRPERSON THOMSON AND SECONDED BY COUNCILOR PELLETIER TO GO INTO EXECUTIVE SESSION AT 6:01 P.M. ROLL CALL VOTE WAS TAKEN AND MOTION PASSED, 6-0.

IT WAS MOVED BY CHAIRPERSON THOMSON AND SECONDED BY COUNCILOR PELLETIER TO COME OUT OF EXECUTIVE SESSION AT 6:20 P.M. ROLL CALL VOTE WAS TAKEN AND MOTION PASSED, 7-0.

6. ADJOURNMENT:

IT WAS MOVED BY CHAIRPERSON THOMSON AND SECONDED BY COUNCILOR WHITE TO ADJOURN THE MEETING AT 6:21 P.M. ALL WERE IN FAVOR BY A VOICE VOTE. MOTION PASSED 7-0.

UNAPPROVED MINUTES

KITTERY TOWN COUNCIL

March 23, 2015

COUNCIL CHAMBERS

1. Call to Order

Chairperson Thomson called the meeting to order at 7:00 P.M.

2. Introductory

Chairperson Thomson read the introductory.

3. Pledge of Allegiance

Chairperson Thomson led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll were Chairperson Jeffrey Thomson, Councilors Russell White, Frank Dennett, Chuck Denault, Jeffrey Pelletier, Judy Spiller and Ken Lemont.

5. Agenda Amendment and Adoption –

The agenda was accepted as presented.

6. Town Manager's Report –

Town Manager Puff stated that the next Athletic Master Field Plan was scheduled for April 8th at 6:30 P.M. and would be replayed on Channel 22.

Town Manager Puff noted relative to snow removal costs that the Town would be eligible to receive funds from FEMA up to \$30,000.

Town Manager Puff stated relative to the Rice Public Library, she had put together a small committee of four people to discuss the future of the Library. She continued they were looking to have a workshop with Council.

Town Manager Puff indicated that the Planning and Code offices were now fully staffed and the Code office would set specific hours they would be in the office.

Town Manager Puff noted they would be meeting with MEDOT soon to discuss whether the Route 1 Bypass area met the definition of urban compact.

Town Manager Puff stated that the transfer of the John Paul Jones Park from the State to the Town would be going in front of the legislature on March 3rd and expected it to go smoothly.

7. Acceptance of Previous Minutes –3/9/15 Special Meeting and 3/9/15 Regular Meeting.

UNAPPROVED MINUTES

The minutes of 3/9/15 Special Meeting and 3/9/15 Regular Meeting were accepted as amended.

8. Interviews for the Board of Appeals and Planning Board – None

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials –

a. (030215-1) The Kittery Town Council moves to abate the following taxes for Robert and Natalie Harris: 49-8 \$668.16; 60-12C \$59.36; 66-2D \$10.65; 60-3A \$147.64; 66-2C \$39.58; 60-12D \$3.05 and issue supplemental taxes to Central Maine Power for the following parcels: 49-8-1 \$668.16; 60-12C-1 \$59.35; 66-2D-1 \$10.66; 60-3A-1 \$147.63; 66-2C-1 \$39.57; 60-12D \$19.79.

COUNCILOR WHITE MOVED TO ABATE THE FOLLOWING TAXES FOR ROBERT AND NATALIE HARRIS: 49-8 \$668.16; 60-12C \$59.36; 66-2D \$10.65; 60-3A \$147.64; 66-2C \$39.58; 60-12D \$3.05 AND ISSUE SUPPLEMENTAL TAXES TO CENTRAL MAINE POWER FOR THE FOLLOWING PARCELS: 49-8-1 \$668.16; 60-12C-1 \$59.35; 66-2D-1 \$10.66; 60-3A-1 \$147.63; 66-2C-1 \$39.57; 60-12D \$19.79, SECONDED BY COUNCILOR SPILLER.

Councilor Denault asked how long the Town had known about these taxes issues. Town Manager Puff responded they had known for a few years but the Assessor had a hard time figuring out the exact portion of the taxes that needed to be transferred. Bruce Kerns, Tax Assessor, came to the podium and stated that there were multiple parcels of land involved and it was difficult to figure out as CMP did not have full interest in the parcels. Councilor Dennett asked Mr. Harris if he wished to have this issue acted on that evening. Mr. Harris responded that he did not. Councilor Pelletier noted that he would like more information before acting on this item.

COUNCILOR PELLETIER MOVED TO POSTPONE ACTION ON THIS ITEM UNTIL THE REGULAR MEETING SCHEDULED FOR APRIL 13TH, SECONDED BY COUNCILOR LEMONT.

Councilor White stated it was his opinion that this issue should be figured out before the next tax bills went out. Town Manager Puff stated that a lot of work had been done on this issue but she would be happy to have Attorney McEachern speak to Council on the matter. Councilor Denault stated he thought postponing this until the next meeting would be appropriate.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

UNAPPROVED MINUTES

65 b. (030215-2) The Kittery Town Council moves to receive a presentation from Forrest
66 Bell of FB Environmental Associates on the "2014 Water Quality Report: Spruce Creek
67 Watershed" for the Town-funded projects completed in 2014 and the proposed projects for 2015
68 as part of the 319 Phase IV grant (\$59,050) awarded this past fall.

69 Forrest Bell of FB Environmental came to the podium and discussed the projects that had
70 been completed in 2014 and the projects they were proposing for 2015. He continued that the
71 ultimate goal was to reopen the shellfish beds. Mr. Bell noted they had received a \$60,000 from
72 MEDEP for a water quality grant. Councilor Denault stated he thought Mr. Bell's presentation
73 was very similar to the prior year's presentation and asked if there was any concrete work that
74 had been completed that year. Mr. Bell responded that they had made tremendous progress over
75 the past few years. Councilor White asked if he would consider including pet waste disposal in
76 the next report and noted that he thought they had made improvements. Councilor Spiller asked
77 if the melting snow would have any impact. Mr. Bell responded that it would and it would be
78 much better if the snow melted slowly. Councilor Lemont stated that he was a member of the
79 Shellfish Commission and stated they had seen the water quality improve greatly. Chairperson
80 Thomson asked if there was an end point they were striving for. Mr. Bell replied they needed to
81 get to consistent levels to meet the Federal Clean Water Act.

82 c. (030215-3) The Kittery Town Council moves to receive a report from a representative
83 from the Portsmouth Naval Ship Yard to discuss transportation demand management and listen
84 to Council's concerns pertaining to the shipyard traffic and circulation.

85 Bill Banks, Executive Director of the Ship Yard, came to the podium and went over the
86 improvements they had tried to make to help alleviate some of the traffic issues at the Yard. He
87 continued the Gate 1 bridge was currently under construction and would be for the next two
88 years. Mr. Banks noted that there was a lot of construction on the Yard and that was contributing
89 to the traffic problem. He continued there was no longer any parking outside of the Yard and
90 they were looking at trying to make arrangements to bus workers in. Mr. Banks noted they
91 encouraged their workers to carpool and they were also trying to stagger start times to help with
92 the traffic. Chairperson Thomson stated that some residents were having a hard time getting out
93 of places on Rogers Road and they were looking for more courtesy from workers. Mr. Banks
94 replied that they were able to communicate with workers on an electronic basis and would
95 remind them to be courteous. He continued he thought the Town should work with the police to
96 take steps to ticket speeding drivers. Councilor White stated he thought it might be beneficial to
97 deploy extra resources during high traffic periods. Councilor Lemont noted it seemed the
98 problem was mostly in the afternoon. Mr. Banks committed to reengaging with the workforce
99 about being courteous. Councilor Denault indicated he thought the officers directing traffic
100 should be more aware of backups. Mr. Bell replied they were working to stagger the traffic
101 better. Councilor Pelletier noted he thought the delivery truck drivers needed to be reminded of
102 the correct route they should be taking.

UNAPPROVED MINUTES

d. (030215-4) The Kittery Town Council moves to receive and discuss a report and recommendation from the Appointment Committee regarding appointments to Boards and Committees.

Chairperson Thomson noted there were a lot of recommendations relative to this issue, some involving changes to the code and some to Council rules. He continued he thought the Manager should put together all of the changes to the Town Code. Councilor Dennett indicated he thought the proposal was flawed and that they should hold a workshop on the matter. Chairperson Thomson stated they would hold a workshop on this issue on March 30th at 6 P.M.

10. PUBLIC HEARINGS - None

11. Discussion

a. Discussion by members of the public –

Shawn Harris came to the podium and asked if he could get copies of all of the work done on the tax issue discussed earlier. He continued that he would like to see what the attorney communicated to the town. Mr. Harris then asked when changes to the Town Report were due. Town Manager Puff replied that they were due now. Bob Harris came to the podium and stated that when the land was sold, he had sat down with the assessor and discussed the sale of the property. He continued that the assessor did not take any notes during that meeting and that he was upset to still be dealing with this issue.

b. Response from Council - None

12. UNFINISHED BUSINESS – None

13. NEW BUSINESS

a. Donations/gifts received for Council disposition - None

b. (030215-5) The Kittery Town Council moves to authorize an alternative procurement method to contract the services of FB Environmental Associates for the proposed Water Quality Project as part of Phase IV of the Spruce Creek Watershed 319 Grant for \$19,977.

COUNCILOR WHITE MOVED TO AUTHORIZE AN ALTERNATIVE PROCUREMENT METHOD TO CONTRACT THE SERVICES OF FB ENVIRONMENTAL ASSOCIATES FOR THE PROPOSED WATER QUALITY PROJECT AS PART OF PHASE IV OF THE SPRUCE CREEK WATERSHED 319 GRANT FOR \$19,977, SECONDED BY COUNCILOR PELLETIER.

Councilor Denault stated he would like to see some concrete results in the next year or he would not support this any longer. Councilor Pelletier stated he thought it might be beneficial to

UNAPPROVED MINUTES

see the results listed in the next report. Councilor Spiller noted that she appreciated the efforts of Mr Bell and thought that this work was under attack when they were really doing an impressive job.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

c. (030215-6) The Kittery Town Council moves to approve a renewal application for Jk Restaurants LLC, 5 Melanies Court, Kittery, Maine for a Malt, Spirituous and Vinous Liquor License for Rudder's Public House, 70 Wallingford Square, Kittery.

COUNCILOR SPILLER MOVED TO APPROVE A RENEWAL APPLICATION FOR JK RESTAURANTS LLC, 5 MELANIES COURT, KITTERY, MAINE FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR RUDDER'S PUBLIC HOUSE, 70 WALLINGFORD SQUARE, KITTERY, SECONDED BY COUNCILOR WHITE.

A ROLL VOTE CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

d. (030215-7) The Kittery Town Council moves to authorize a request from the Kittery Point Fire Association to hang a banner across Rogers Road in front of the Kittery Community Center, as well as, post signs at the Traffic Circle, the end of Haley Road on Route 1 and the corner of Bridge Street and Route 1 Bypass, to advertise their Ham & Bean Suppers from April 18-26 and October 10-18, 2015.

COUNCILOR LEMONT MOVED TO AUTHORIZE A REQUEST FROM THE KITTERY POINT FIRE ASSOCIATION TO HANG A BANNER ACROSS ROGERS ROAD IN FRONT OF THE KITTERY COMMUNITY CENTER, AS WELL AS, POST SIGNS AT THE TRAFFIC CIRCLE, THE END OF HALEY ROAD ON ROUTE 1 AND THE CORNER OF BRIDGE STREET AND ROUTE 1 BYPASS, TO ADVERTISE THEIR HAM & BEAN SUPPERS FROM APRIL 18-26 AND OCTOBER 10-18, 2015, SECONDED BY COUNCILOR PELLETTIER, WITH ALL IN FAVOR. MOTION PASSES 7/0.

e. (030215-8) The Kittery Town Council moves to authorize a request from the Kittery Fire Station Association to hang a banner across Rogers Road in front of the Kittery Community Center and on York Hospital's outside wall on the corner of Walker Street and Route 1 to advertise their annual 5K Road Race and Walk, as well as, post signs in various locations throughout the community to advertise their Pancake Breakfast.

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COUNCILOR WHITE MOVED TO AUTHORIZE A REQUEST FROM THE KITTERY FIRE STATION ASSOCIATION TO HANG A BANNER ACROSS ROGERS ROAD IN FRONT OF THE KITTERY COMMUNITY CENTER AND ON YORK HOSPITAL'S OUTSIDE WALL ON THE CORNER OF WALKER STREET AND ROUTE 1 TO ADVERTISE THEIR ANNUAL 5K ROAD RACE AND WALK, AS WELL AS, POST SIGNS IN VARIOUS LOCATIONS THROUGHOUT THE COMMUNITY TO ADVERTISE THEIR PANCAKE BREAKFAST, SECONDED BY COUNCILOR DENAULT WITH ALL IN FAVOR. MOTION PASSES 7/0.

f. (030215-9) The Kittery Town Council moves to approve and sign a Construction Overlimit Permit Agreement with the Maine Department of Transportation Permitting the contractor for project No. NHP-2028(600) on Route 236 to use loads and equipment on municipal ways in excess of the limits as specified in 29-A MRS, on municipal ways as described in the "Construction Area".

COUNCILOR SPILLER MOVED TO APPROVE AND SIGN A CONSTRUCTION OVERLIMIT PERMIT AGREEMENT WITH THE MAINE DEPARTMENT OF TRANSPORTATION PERMITTING THE CONTRACTOR FOR PROJECT NO. NHP-2028(600) ON ROUTE 236 TO USE LOADS OF EQUIPMENT ON MUNICIPAL WAYS IN EXCESS OF THE LIMITS AS SPECIFIED IN 29-A MRS, ON MUNICIPAL WAYS AS DESCRIBED IN THE "CONSTRUCTION AREA", SECONDED BY COUNCILOR LEMONT WITH ALL IN FAVOR. MOTION PASSES 7/0.

Councilor Dennett stated they could require a bond from the State if they wanted.

g. (030215-10) The Kittery Town Council moves to approve the disbursement warrants.

COUNCILOR PELLETIER MOVED TO APPROVE THE DISBURSEMENTS, SECONDED BY COUNCILOR WHITE WITH ALL IN FAVOR. MOTION PASSES 7/0.

h. (030215-11) The Kittery Town Council moves to schedule a public hearing to authorize bonds for Capital Improvement Projects not to exceed \$3,079,832.00.

CHAIRPERSON THOMSON MOVED TO SCHEDULE A PUBLIC HEARING ON APRIL 13, 2015 TO AUTHORIZE BONDS FOR CAPITAL IMPROVEMENTS PROJECTS NOT TO EXCEED \$3,079,832.00, SECONDED BY COUNCILOR SPILLER.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

i. (030215-12) The Kittery Town Council moves to schedule a public hearing on an amendment to Section 2.14 and 6.06 of the Kittery Town Charter.

UNAPPROVED MINUTES

COUNCILOR DENAULT MOVED TO SCHEDULE A PUBLIC HEARING ON APRIL 13TH ON AN AMENDMENT TO SECTION 2.14 AND 6.06 OF THE KITTERY TOWN CHARTER, SECONDED BY COUNCILOR PELLETIER.

Councilor Dennett stated he thought this was going to be asking for trouble and asked the Town Manager to get an opinion from the town attorney.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

j. (030215-13) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Port Authority to interview Ernie D'Angelo for his appointment to that board until 9/31/18 to fill the unexpired term of Dan Arbo.

CHAIRPERSON THOMSON MOVED TO APPOINT COUNCILOR DENAULT TO MEET WITH THE CHAIR OF THE PORT AUTHORITY TO INTERVIEW ERNIE D'ANGELO FOR HIS APPOINTMENT TO THAT BOARD UNTIL 9/31/18 TO FILL THE UNEXPIRED TERM OF DAN ARBO, SECONDED BY COUNCILOR SPILLER, WITH ALL IN FAVOR. MOTION PASSES 7/0.

k. (030215-14) The Kittery Town Council moves to appoint a representative to meet with the Chair of Port Authority to interview Mark Drummond for his appointment to that board until 8/31/16 to fill the unexpired term of Thomas Smith.

CHAIRPERSON THOMSON MOVED TO APPOINT COUNCILOR DENNETT TO MEET WITH THE CHAIR OF THE PORT AUTHORITY TO INTERVIEW MARK DRUMMOND FOR HIS APPOINTMENT TO THAT BOARD UNTIL 8/31/16 TO FILL THE UNEXPIRED TERM OF THOMAS SMITH, SECONDED BY COUNCILOR SPILLER WITH ALL IN FAVOR. MOTION PASSES 7/0.

14. COUNCILOR ISSUE OR COMMENT

Councilor Lemont thanked everyone for a great workshop with the School Committee.

Councilor Spiller asked if they could receive a report on fixing the potholes in town. She continued she would like to remind residents to pick up after their dogs at Seapoint Beach and Fort Foster.

Councilor Denault stated they were still looking for former Boy Scouts to participate in an alumni night.

Councilor Denault noted relative to the Boston Cane, that Lillian True still had the Cane and would like to hold on to it.

UNAPPROVED MINUTES

234 Councilor Denault indicated he was still receiving a lot of complaints about out of state
235 plates in Town.

236 Councilor Denault then listed the residents who had passed away in the past few weeks.

237 15. COMMITTEE AND OTHER REPORTS

238 a. Communications from the Chairperson

239 Chairperson Thomson stated they would be having a workshop the next Monday at 6:00
240 P.M.

241 Chairperson Thomson read a letter from Lauren Gallant praising the Kittery Fire
242 Department for their response to a fire at her home recently on Pepperrell Road.

243 b. Committee Reports – None

244 16. EXECUTIVE SESSION – None

245 17. ADJOURNMENT

246 **COUNCILOR PELLETIER MOVED TO ADJOURN, SECONDED BY**
247 **COUNCILOR DENAULT WITH ALL IN FAVOR. MEETING ADJOURNED AT 8:55**
248 **P.M.**

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UNAPPROVED MINUTES

March 30, 2015

Kittery Town Council
Special Meeting
Requested by Jeffrey Thomson, Chair

Council Chambers

1. CALL TO ORDER: Chairperson Thomson called the meeting to order at 6:00 p.m.
2. INTRODUCTORY: Chairperson Thomson read the introductory.
3. PLEDGE OF ALLEGIANCE: Chairperson Thomson led those present in the Pledge of Allegiance.
4. ROLL CALL: Answering the roll were Councilors Frank Dennett, Charles Denault, Jeffrey Pelletier, Russell White, Judy Spiller, Kenneth Lemont and Chairperson Jeffrey Thomson. .
5. NEW BUSINESS:

a. (030315-1) The Kittery Town Council moves to approve and sign a three year labor contract from July 1, 2014 thru June 30, 2017, for the Professional unit.

IT WAS MOVED BY CHAIRPERSON THOMSON AND SECONDED BY COUNCILOR PELLETIER, A ROLL CALL VOTE WAS TAKEN AND MOTION PASSED, 6-1 WITH COUNCILOR DENNETT OPPOSED.

6. ADJOURNMENT:

IT WAS MOVED BY COUNCILOR PELLETIER AND SECONDED BY COUNCILOR WHITE TO ADJOURN THE MEETING AT 6:01 P.M. ALL WERE IN FAVOR BY A VOICE VOTE. MOTION PASSED 7-0.

UNAPPROVED MINUTES

April 6, 2015

Kittery Town Council
Special Meeting
Requested by Jeffrey Thomson, Chair

Council Chambers

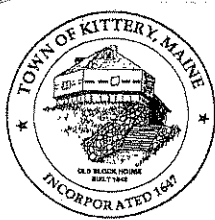
1. CALL TO ORDER: Chairperson Thomson called the meeting to order at 6:00 p.m.
2. INTRODUCTORY: Chairperson Thomson read the introductory.
3. PLEDGE OF ALLEGIANCE: Chairperson Thomson led those present in the Pledge of Allegiance.
4. ROLL CALL: Answering the roll were Councilors Frank Dennett, Charles Denault, Jeffrey Pelletier, Russell White, Judy Spiller, Kenneth Lemont and Chairperson Jeffrey Thomson.
5. DISCUSSION
 - a. Discussion by members of the public - None
 - b. Response to public comment directed to a particular Councilor - None
 - c. Chairperson's response to public comments - None
6. NEW BUSINESS:

(030415-1) The Kittery Town Council moves to receive a presentation from the Superintendent of Schools on the FY'16 School Budget.

Superintendent Allyn Hutton presented the FY'16 School Budget to the Town Council. General questions were asked by the public and Town Council for clarification and were answered by Superintendent Hutton.

7. ADJOURNMENT:

IT WAS MOVED BY COUNCILOR WHITE AND SECONDED BY COUNCILOR PELLETIER TO ADJOURN THE MEETING AT 7:01 P.M. ALL WERE IN FAVOR BY A VOICE VOTE. MOTION PASSED 7-0.



TOWN OF KITTERY
 Office of the Town Clerk
 200 Rogers Road, Kittery, Maine 03904
 Telephone: (207) 475-1328 Fax: (207) 439-6806

**APPLICATION FOR VICTUALERS, INNKEEPERS,
 AND LODGING HOUSE OPERATORS LICENSE**

Applicant's name: Global montello Group corp.
 (please print)

Address: 800 South St, Suite 200, Waltham, MA 02453
 (please print)

Applicant's mailing address if different from above: _____

Applicant's Date of Birth: _____ Applicant's Home Telephone Number: 781-899-8800

Name of Business: Global montello Group Corp Kittery
 (please print)

Business Address: 286 Route 1, Kittery, ME 03904
 (please print)

Business Telephone Number: 207-439-6713

SIGNATURE OF APPLICANT: _____ DATE: 12/19/14

APPLICANT'S NAME: Global montello Group corp
Edward Farnell, EVP
 (please print)
By: Edward Farnell

LICENSE FEE: \$ 50.00

FIRST TIME APPLICATIONS: \$50.00
 RENEWAL OF LICENSE: \$25.00

PLEASE SUBMIT THIS FORM WITH THE APPROPRIATE FEE TO THE TOWN CLERK'S OFFICE

Sec. 2.14. Ordinances in general.

- (1) Form. Every proposed ordinance ~~shall~~ must be introduced in writing and in the form required for final adoption. No ordinance ~~shall~~ may contain more than one subject which ~~shall~~ must be clearly expressed in its title. The enacting clause ~~shall~~ must be "The Town of Kittery hereby ordains...". Any ordinance which repeals or amends an existing ordinance or part of the town code ~~shall~~ must set out in full the ordinance, sections or subsections to be repealed or amended; ~~and shall~~ indicate matter to be omitted by enclosing it in brackets or by strikeout type and ~~shall~~ indicate new matter by underscoring or by italics.
- (2) Procedure. An ordinance may be introduced by any member at any regular or special meeting of the council. The town clerk shall provide a copy to each council member and to the manager and shall make a reasonable number of copies available in the office of the town clerk, and shall, unless directed otherwise pursuant to State Statute, publish in a newspaper of general circulation in the town on the Town's web site, and post in a public place in the Municipal Offices, the Kittery U.S. Post Office(s), and the Community Center, a notice setting out the time and place for a public hearing thereon. The public hearing ~~shall~~ must follow the publication/posting by at least 7 days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time. All persons interested ~~shall~~ will have an opportunity to be heard at the hearing. After the hearing, the council may adopt the ordinance with or without amendment or reject it.
- (3) Effective date. Except as otherwise provided in this charter, every adopted ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.

Sec. 6.06. Council action on proposed budget.

- (1) Notice and hearing. The council shall publish as soon as possible ~~in one or more newspapers of general circulation in the town~~ on the Town's web site, and post in the Municipal Offices, the Kittery U.S. Post Office(s), and the Community Center, the general summary of the proposed budget and a notice stating:
 - (a) The times and places where copies of the message and proposed budget are available for inspection by the public, and
 - (b) The time and place, not less than 14 calendar days after such publication/posting, for a public hearing on the proposed budget.

Nancy Colbert Puff

From: Legal Services Department [Legal_Services_Department@memun.org]
Sent: Wednesday, March 25, 2015 11:09 AM
To: Nancy Colbert Puff
Subject: FW: Kittery - Legal Information Request - Web Member Inquiry

Dear Nancy,

I don't see any legal problems with your proposal as it still provides for notice in ways that generally exceed notice requirements under both 1 M.R.S.A. Section 406 (Maine's "Right to Know" law) and 30-A M.R.S.A. Section 3002 (ordinance enactment procedures).

However, where your proposal defers to more restrictive State statutory requirements (as it must), be advised that these requirements include published and, in some cases, mailed notice for the adoption and amendment of zoning ordinances (see 30-A M.R.S.A. Section 4352(9) and (10); 38 M.R.S.A. Section 438-A(1-B)(A)).

As I say, you *must* comply with these more restrictive statutory notice requirements, but whereas they include *zoning* ordinances, this represents a fairly significant exception to your proposed alternative means of giving notice. Just wanted to point that out.

I hope this is helpful, Nancy. Please let me know if you have anything further.

Best regards,

Richard P. Flewelling, Assistant Director
Legal Services Department

Maine Municipal Association
60 Community Drive, Augusta, ME 04330
1-800-452-8786 (in-state)
207-623-8428
FAX 207-624-0187
legal@memun.org

This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. Thank you.

From: Maine Municipal Association [<mailto:webmail@memun.org>]
Sent: Wednesday, March 25, 2015 8:06 AM
To: Legal Services Department
Subject: Kittery - Legal Information Request - Web Member Inquiry

Legal Services - Web Member Inquiry - Nancy Colbert Puff - Kittery

Municipality	Kittery
Full Name	Nancy Colbert Puff

Title Town Manager

Email Address ncolbertpuff@kitteryme.org

Telephone 2074751329

Fax Number:

Address 200 Rogers Road

City/ Town Kittery

Zip 03904

Comments:

We are considering a Charter Amendment that seeks to change the way ordinance revisions are publicized from the newspaper to the web/posting in public places, unless State Statute directs otherwise (e.g. zoning amendments requiring newspaper advertising). Following is the proposed wording: Procedure. An ordinance may be introduced by any member at any regular or special meeting of the council. The town clerk shall provide a copy to each council member and to the manager and shall make a reasonable number of copies available in the office of the town clerk, and shall, unless directed otherwise pursuant to State Statute, publish on the Town's web site, and post in a public place in the Municipal Offices, the Kittery U.S. Post Office(s), and the Community Center, a notice setting out the time and place for a public hearing thereon. Do you see any issue with this? Have others adopted similar provisions? Thank you.

Inquiry ID: 3ef5a0b1-2054-4dea-bdf1-0ababcf08c2b
IP Address: 70.88.209.241

FY15 to 3/1/15

04/02/2015 12:15
220csak1TOWN OF KITTERY
INVOICE BROWSEP 1
apvdrmt

Clerk	Document	Invoice	Inv Date	PO	WARRANT	S	Check #	Amount	Use Tax
220sgross	63504	486630	11/30/2014		T15-24	P	66389	19.50	.00
220sgross	62552	485813	09/30/2014		T15-19	P	65848	99.00	.00
220sgross	66222	00033228 03/01/15	03/01/2015		T15-38	P	67995	99.76	.00
220lhar	62488	197554 197555	10/26/2014		S15-10	P	65801	102.57	.00
220lhar	64770	488568	01/20/2015		S15-16	P	67184	126.76	.00
220sgross	61048	483712	08/31/2014		T15-12	P	64934	198.00	.00
220sgross	59806	482407	07/27/2014		T15-06	P	64218	277.71	.00
220sgross	61693	484777	09/28/2014		T15-15	P	65353	297.00	.00
220sgross	59673	481346	06/29/2014		SW15-05	P	64163	537.99	.00
220sgross	65076	488557	01/20/2015		T15-32	P	67313	926.54	.00
220sgross	62724	485565	10/26/2014		T15-20	P	65934	1,035.22	.00
220sgross	66525	FEB 2015	03/01/2015		T15-39	P	68139	1,153.41	.00
220sgross	64513	487649	12/28/2014		T15-29	P	67000	1,328.73	.00
220sgross	61049	483451	08/31/2014		T15-12	P	64934	1,648.83	.00
220sgross	63503	486631	11/30/2014		T15-24	P	66389	1,774.70	.00
220sgross	60015	482408	07/27/2014		T15-07	P	64379	1,833.77	.00
220sgross	61694	484512	09/28/2014		T15-15	P	65353	1,895.00	.00

Vendor: 10652 SEACOAST MEDIA GRP has 17 Invoices for: 13,354.49

** END OF REPORT - Generated by Cindy Saklad **

FY14

04/02/2015 12:17
220csaklTOWN OF KITTEERY
INVOICE BROWSEP 1
apvdrmt

Clerk	Document	Invoice	Inv Date	PO	WARRANT	S	Check #	Amount	Use Tax
220lhar	52902	474005	12/01/2013		S14-13	P	60152	126.76	.00
220sross	49972	470747	09/01/2013		T14-11	P	58295	126.76	.00
220sross	53084	474008	12/01/2013		T14-24	P	60025	261.50	.00
220lhar	58224	480226	05/23/2014		S14-26	P	63261	337.86	.00
220sross	54755	475859	01/26/2014		T14-32	P	60984	400.00	.00
220lhar	54787	476180	01/22/2014		S14-17	P	61092	428.12	.00
220lhar	49160	469633	07/27/2013		S14-04	P	57800	445.22	.00
220sross	54053	472663	10/27/2013		T14-29	P	60628	492.00	.00
220sross	56808	478185	03/30/2014		T14-42	P	62156	555.42	.00
220sross	53083	474009	12/01/2013		T14-24	P	60025	585.42	.00
220sross	54725	476183	01/26/2014		T14-32	P	60984	627.99	.00
220sross	55798	477206	03/02/2014		T14-37	P	61632	730.56	.00
220lhar	50834	471813	09/30/2013		S14-08	P	58800	774.16	.00
220sross	51268	471816	09/29/2013		T14-16	P	58962	827.32	.00
220sross	59005	481347	06/29/2014		T14-54	P	63667	889.43	.00
220sross	51844	472883	10/27/2013		T14-18	P	59279	948.27	.00
220sross	48985	469635	07/28/2013		T14-05	P	57661	1,032.46	.00
220sross	54282	475128	12/29/2013		T14-30	P	60719	1,329.10	.00
220sross	57277	479157	04/27/2014		T14-45	P	62546	1,515.31	.00
220sross	50496	470748	09/01/2013		T14-13	P	58597	1,515.31	.00
220lhar	49912	470745	09/09/2013		S14-06	P	58246	1,861.54	.00
220sross	58504	480229	06/01/2014		T14-51	P	63327	2,942.52	.00

Vendor: 10652 SEACOAST MEDIA GRP has 22 Invoices for: 18,753.03

** END OF REPORT - Generated by Cindy Saklad **

FY13

04/02/2015 12:18
220csakiTOWN OF KITTERY
INVOICE BROWSEP 1
apvdrmt

Clerk	Document	Invoice	Inv Date	PO	WARRANT	S	Check #	Amount	Use Tax
220sross	47513	463121 ADJ	03/13/2013		T13-49	P	56742	-72.21	.00
220jatk	43576	462078	12/30/2012		T13-31	P	54543	30.00	.00
220lhar	44826	464167	03/06/2013		S13-34	P	55359	102.57	.00
220bcost	39737	7114360 091312	09/13/2012	130135	S13-16	P	52500	114.40	.00
220sross	47598	11894 SPOTLIGHT 6/13	06/04/2013		T13-50	P	56838	136.80	.00
220bcost	37423	456205	07/29/2012		T13-06	P	51179	164.16	.00
220bcost	38828	457659	09/02/2012		S13-13	P	52062	211.00	.00
220lhar	47625	467367	06/02/2013		S13-41	P	56901	258.50	.00
220lhar	46508	154358	04/28/2013		S13-38	P	56213	258.50	.00
220jatk	42047	460970	12/01/2012		S13-25	P	53830	263.96	.00
220bcost	37463	456578	07/29/2012		S13-06	P	51128	303.34	.00
220lhar	43692	463118	01/30/2013		S13-31	P	54656	337.86	.00
220jatk	40786	459813	10/28/2012		T13-20	P	53104	417.39	.00
220bcost	38717	457662	09/02/2012		T13-12	P	52012	458.66	.00
220lhar	45789	149617	03/07/2013		S13-36	P	55831	503.78	.00
220jatk	44948	463121	02/28/2013		T13-37	P	55268	526.53	.00
220jatk	45175	464170	03/03/2013		T13-38	P	55435	667.05	.00
220bcost	39484	458492	09/30/2012		T13-15	P	52374	1,192.92	.00
220bcost	37422	456580	07/29/2012		T13-06	P	51178	1,219.22	.00
220sross	48362	468516	06/30/2013		T13-54	P	57312	1,438.97	.00
220sross	47524	467369	06/05/2013		T13-49	P	56742	1,624.41	.00
220jatk	40974	459811	10/28/2012		S13-21	P	53234	1,816.42	.00
220bcost	39485	458725	09/30/2012		T13-15	P	52787	1,855.53	.00
220sross	46465	465201	02/25/2013		T13-44	P	56134	1,913.09	.00
220jatk	42702	460972	12/02/2012		13-27	P	54122	2,184.23	.00
220sross	47434	466257	06/05/2013		T13-49	P	56742	2,229.24	.00

Vendor: 10652 SEACOAST MEDIA GRP has 26 Invoices for: 20,156.32

** END OF REPORT - Generated by Cindy Saklad **

**ORDINANCE AUTHORIZING
TOWN OF KITTEERY \$1,300,000 BOND ISSUE
TO FUND ROAD INFRASTRUCTURE
CAPITAL IMPROVEMENT PROJECTS**

THE TOWN OF KITTEERY HEREBY ORDAINS THAT pursuant to 30-A M.R.S. Sections 5721 and 5772 and the Charter of the Town of Kittery (the "Charter"), the Town be authorized to issue general obligation bonds in an amount not to exceed \$1,300,000 and notes in anticipation thereof (collectively, the "Bonds") for the purpose of funding road infrastructure capital improvement projects (the "Project"), provided, however, that pursuant to section 6.07 of the Charter this ordinance be subject to approval by the Town's voters at referendum election as provided herein;

THAT the proceeds of the Bonds, including any investment earnings on the Bonds, and accrued interest, if any, be appropriated for the purposes set forth herein;

THAT the Treasurer be authorized to prepare, issue, and sell the Bonds at one time or from time to time, as one or more separate bond issues, as tax-exempt or as taxable obligations, and to determine the date, form, interest rates, maturities, denominations and all other details of each issue of the Bonds, including the form and manner of their sale and award, subject to the provisions of law, the Town Charter and this Ordinance;

THAT the Treasurer be authorized to provide that any of the Bonds and notes herein authorized may be made callable, with or without premium, prior to their maturity;

THAT the Bonds be executed by the Treasurer, countersigned by the Council Chairperson, sealed with the official seal of the Town, attested by the Clerk, and otherwise be in such form and contain such terms and provisions, not inconsistent herewith, as they shall approve, their approval to be conclusively evidenced by their execution thereof and that any signature thereon may be by facsimile to the extent permitted by law;

THAT the Treasurer be authorized to provide for the sale of the Bonds at public or private sale, on such terms not inconsistent herewith as the Treasurer may approve, such approval to be conclusively evidenced by execution thereof;

THAT in connection with the sale of any of the Bonds the Treasurer be authorized to select financial advisors, underwriters, registrars, paying agents and transfer agents and that in connection with selecting and hiring any or all of the foregoing the Treasurer be authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate;

THAT the Treasurer be authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of any of the Bonds herein authorized, any such Preliminary Official Statement and

THAT the Treasurer be authorized to take all such actions as may be necessary to designate any of the Bonds as qualified tax-exempt obligations for purposes of Section 265(b) of said Code;

THAT the Treasurer be authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of the Bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

THAT an amount sufficient for the payment of the annual payments of principal and interest on the Bonds, not payable from other sources, shall be included in the tax levy of each year until the debt represented by the Bonds is extinguished;

THAT the proceeds of the Bonds, including investment earnings and accrued interest, if any, be appropriated for the costs of the Project; and that excess proceeds of the Bonds, if any, be appropriated, first, to any costs of the Project in excess of the principal amount of the Bonds and, second, in accordance with the Arbitrage and the Use of Proceeds Certificate delivered in connection with the sale of the Bonds, if applicable, including, to the extent permitted thereunder, to the Town's general fund;

THAT the term "cost" or "costs," as used herein and applied to the Project, includes all costs related to the Project, including without limitation costs, as applicable, for (1) acquiring, constructing, renovating, repairing, improving, equipping, designing and engineering all or any portion of the Project and infrastructure related to the Project; (2) site preparation, including as applicable, removal of any existing buildings and improvements; (3) any real property interests, rights, easements, licenses and franchises acquired or conveyed in connection with the Project; (4) planning and development, site selection, preparation of specifications, surveys, engineering and feasibility studies, and other professional services associated with the Project; (5) environmental studies, appraisals and assessments; and (6) financing charges and issuance costs related to the sale and issuance of Bonds and notes authorized hereunder, including without limitation premiums for insurance, interest prior to and during construction and for a period not greater than three (3) years from the issue date of the Bonds, financial advisor fees and costs, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses;

THAT the Treasurer, Chairman of the Town Council and Clerk and other proper officials of the Town be authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds and the accomplishment of the Project herein authorized;

THAT if any of the officers or officials of the Town who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds

Shall the Town of Kittery council be authorized to issue bonds in a total amount not to exceed \$1,300,000 for the purpose of funding road infrastructure capital improvement projects?

A true copy, attest:

Maryann Place, Town Clerk

**ORDINANCE AUTHORIZING
TOWN OF KITTERY \$958,015 BOND ISSUE
TO FUND MUNICIPAL FACILITIES CAPITAL IMPROVEMENT PROJECTS**

THE TOWN OF KITTERY HEREBY ORDAINS THAT pursuant to 30-A M.R.S. Sections 5721 and 5772 and the Charter of the Town of Kittery (the "Charter"), the Town be authorized to issue general obligation bonds in an amount not to exceed \$958,015 and notes in anticipation thereof (collectively, the "Bonds") for the purpose of funding municipal facilities capital improvement projects, including community center renovations, dispatch center upgrades, and a new generator for the municipal offices (the "Project"), provided, however, that pursuant to section 6.07 of the Charter this ordinance be subject to approval by the Town's voters at referendum election as provided herein;

THAT the proceeds of the Bonds, including any investment earnings on the Bonds, and accrued interest, if any, be appropriated for the purposes set forth herein;

THAT the Treasurer be authorized to prepare, issue, and sell the Bonds at one time or from time to time, as one or more separate bond issues, as tax-exempt or as taxable obligations, and to determine the date, form, interest rates, maturities, denominations and all other details of each issue of the Bonds, including the form and manner of their sale and award, subject to the provisions of law, the Town Charter and this Ordinance;

THAT the Treasurer be authorized to provide that any of the Bonds and notes herein authorized may be made callable, with or without premium, prior to their maturity;

THAT the Bonds be executed by the Treasurer, countersigned by the Council Chairperson, sealed with the official seal of the Town, attested by the Clerk, and otherwise be in such form and contain such terms and provisions, not inconsistent herewith, as they shall approve, their approval to be conclusively evidenced by their execution thereof and that any signature thereon may be by facsimile to the extent permitted by law;

THAT the Treasurer be authorized to provide for the sale of the Bonds at public or private sale, on such terms not inconsistent herewith as the Treasurer may approve, such approval to be conclusively evidenced by execution thereof;

THAT in connection with the sale of any of the Bonds the Treasurer be authorized to select financial advisors, underwriters, registrars, paying agents and transfer agents and that in connection with selecting and hiring any or all of the foregoing the Treasurer be authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate;

THAT the Treasurer be authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of any of the Bonds herein authorized, any such Preliminary Official Statement and

THAT the Treasurer be authorized to take all such actions as may be necessary to designate any of the Bonds as qualified tax-exempt obligations for purposes of Section 265(b) of said Code;

THAT the Treasurer be authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of the Bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

THAT an amount sufficient for the payment of the annual payments of principal and interest on the Bonds, not payable from other sources, shall be included in the tax levy of each year until the debt represented by the Bonds is extinguished;

THAT the proceeds of the Bonds, including investment earnings and accrued interest, if any, be appropriated for the costs of the Project; and that excess proceeds of the Bonds, if any, be appropriated, first, to any costs of the Project in excess of the principal amount of the Bonds and, second, in accordance with the Arbitrage and the Use of Proceeds Certificate delivered in connection with the sale of the Bonds, if applicable, including, to the extent permitted thereunder, to the Town's general fund;

THAT the term "cost" or "costs," as used herein and applied to the Project, includes all costs related to the Project, including without limitation costs, as applicable, for (1) acquiring, constructing, renovating, repairing, improving, equipping, designing and engineering all or any portion of the Project and infrastructure related to the Project; (2) site preparation, including as applicable, removal of any existing buildings and improvements; (3) any real property interests, rights, easements, licenses and franchises acquired or conveyed in connection with the Project; (4) planning and development, site selection, preparation of specifications, surveys, engineering and feasibility studies, and other professional services associated with the Project; (5) environmental studies, appraisals and assessments; and (6) financing charges and issuance costs related to the sale and issuance of Bonds and notes authorized hereunder, including without limitation premiums for insurance, interest prior to and during construction and for a period not greater than three (3) years from the issue date of the Bonds, financial advisor fees and costs, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses;

THAT the Treasurer, Chairman of the Town Council and Clerk and other proper officials of the Town be authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds and the accomplishment of the Project herein authorized;

THAT if any of the officers or officials of the Town who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds so signed and sealed shall have been actually authenticated or delivered by the Town, such Bonds

Shall the Town of Kittery council be authorized to issue bonds in a total amount not to exceed \$958,015 for the purpose of funding municipal facilities capital improvement projects, including community center renovations, dispatch center upgrades, and a new generator for the municipal offices?

A true copy, attest:

Maryann Place, Town Clerk

**ORDINANCE AUTHORIZING
TOWN OF KITTERY \$821,817 BOND ISSUE
TO FUND SCHOOL FACILITIES
CAPITAL IMPROVEMENT PROJECTS**

THE TOWN OF KITTERY HEREBY ORDAINS THAT pursuant to 30-A M.R.S. Sections 5721 and 5772 and the Charter of the Town of Kittery (the "Charter"), the Town be authorized to issue general obligation bonds in an amount not to exceed \$821,817 and notes in anticipation thereof (collectively, the "Bonds") for the purpose of funding school facilities capital improvement projects, including renovations and improvements to Traip Academy and Shapleigh School and improvements to the Mitchell School heating system (the "Project"), provided, however, that pursuant to section 6.07 of the Charter this ordinance be subject to approval by the Town's voters at referendum election as provided herein;

THAT the proceeds of the Bonds, including any investment earnings on the Bonds, and accrued interest, if any, be appropriated for the purposes set forth herein;

THAT the Treasurer be authorized to prepare, issue, and sell the Bonds at one time or from time to time, as one or more separate bond issues, as tax-exempt or as taxable obligations, and to determine the date, form, interest rates, maturities, denominations and all other details of each issue of the Bonds, including the form and manner of their sale and award, subject to the provisions of law, the Town Charter and this Ordinance;

THAT the Treasurer be authorized to provide that any of the Bonds and notes herein authorized may be made callable, with or without premium, prior to their maturity;

THAT the Bonds be executed by the Treasurer, countersigned by the Council Chairperson, sealed with the official seal of the Town, attested by the Clerk, and otherwise be in such form and contain such terms and provisions, not inconsistent herewith, as they shall approve, their approval to be conclusively evidenced by their execution thereof and that any signature thereon may be by facsimile to the extent permitted by law;

THAT the Treasurer be authorized to provide for the sale of the Bonds at public or private sale, on such terms not inconsistent herewith as the Treasurer may approve, such approval to be conclusively evidenced by execution thereof;

THAT in connection with the sale of any of the Bonds the Treasurer be authorized to select financial advisors, underwriters, registrars, paying agents and transfer agents and that in connection with selecting and hiring any or all of the foregoing the Treasurer be authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate;

THAT the Treasurer be authorized to take all such actions as may be necessary to designate any of the Bonds as qualified tax-exempt obligations for purposes of Section 265(b) of said Code;

THAT the Treasurer be authorized to covenant, certify and agree, on behalf of the Town, for the benefit of the holders of the Bonds, that the Town will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

THAT an amount sufficient for the payment of the annual payments of principal and interest on the Bonds, not payable from other sources, shall be included in the tax levy of each year until the debt represented by the Bonds is extinguished;

THAT the proceeds of the Bonds, including investment earnings and accrued interest, if any, be appropriated for the costs of the Project; and that excess proceeds of the Bonds, if any, be appropriated, first, to any costs of the Project in excess of the principal amount of the Bonds and, second, in accordance with the Arbitrage and the Use of Proceeds Certificate delivered in connection with the sale of the Bonds, if applicable, including, to the extent permitted thereunder, to the Town's general fund;

THAT the term "cost" or "costs," as used herein and applied to the Project, includes all costs related to the Project, including without limitation costs, as applicable, for (1) acquiring, constructing, renovating, repairing, improving, equipping, designing and engineering all or any portion of the Project and infrastructure related to the Project; (2) site preparation, including as applicable, removal of any existing buildings and improvements; (3) any real property interests, rights, easements, licenses and franchises acquired or conveyed in connection with the Project; (4) planning and development, site selection, preparation of specifications, surveys, engineering and feasibility studies, and other professional services associated with the Project; (5) environmental studies, appraisals and assessments; and (6) financing charges and issuance costs related to the sale and issuance of Bonds and notes authorized hereunder, including without limitation premiums for insurance, interest prior to and during construction and for a period not greater than three (3) years from the issue date of the Bonds, financial advisor fees and costs, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses;

THAT the Treasurer, Chairman of the Town Council and Clerk and other proper officials of the Town be authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds and the accomplishment of the Project herein authorized;

THAT if any of the officers or officials of the Town who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds so signed and

**REFERENDUM QUESTION ON PROPOSED 2015 TOWN OF KITTERY
\$821,817 BOND ISSUE TO FUND SCHOOL FACILITIES CAPITAL
IMPROVEMENT PROJECTS**

Shall the Town of Kittery council be authorized to issue bonds in a total amount not to exceed \$821,817 for the purpose of funding school facilities capital improvement projects, including renovations and improvements to Traip Academy and Shapleigh School and improvements to the Mitchell School heating system?

A true copy, attest:

Maryann Place, Town Clerk

HARRIS PROPERTIES ABATEMENT SUMMARY

HARRIS, ROBERT & NATALIE				
2014				
	Owner	Original Assessment	Adjusted Assessment	Abatement
49-8	Harris, R	\$ 706.21	\$ 38.05	\$ 668.16
60-12C	Harris, R	\$ 62.40	\$ 3.04	\$ 59.36
66-2D	Harris, R	\$ 10.65	\$ -	\$ 10.65
60-3A	Harris, R	\$ 156.77	\$ 9.13	\$ 147.64
66-2C	Harris, R	\$ 42.62	\$ 3.04	\$ 39.58
60-12B	Harris, R	\$ 112.63	\$ 109.58	\$ 3.05
	TOTALS	\$ 1,091.28	\$ 162.84	\$ 928.44
CENTRAL MAINE POWER				
	Owner	Original Assessment	Adjusted Assessment	Supplemental Assessment
49-8-1	CMP	\$ 222.21	\$ 890.37	\$ 668.16
60-12C-1	CMP	\$ 19.79	\$ 79.14	\$ 59.35
66-2D-1	CMP	\$ 3.04	\$ 13.70	\$ 10.66
60-3A-1	CMP	\$ 50.23	\$ 197.86	\$ 147.63
66-2C-1	CMP	\$ 13.70	\$ 53.27	\$ 39.57
60-12D*	CMP	\$ -	\$ 19.79	\$ 19.79
	TOTALS	\$ 308.97	\$ 1,254.13	\$ 945.16
*	Parcel 60-12B was divided and sold to CMP (Parcel 60-12D). CMP was not assessed taxes in 2014.			



TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

ncolbertpuff@kitteryme.org

Nancy Colbert Puff
Town Manager

INTEROFFICE MEMORANDUM

TO: TOWN COUNCIL
FROM: COMMITTEE ON APPOINTMENTS
SUBJECT: REPORT OF THE COMMITTEE ON APPOINTMENTS
DATE: MARCH 17, 2015; REVISED POST 3/30/15 WORKSHOP
CC: MARYANN PLACE, GEORGE DOW, ANN GRINNELL

As requested by Council at its December 23, 2014 meeting, a Committee comprised of three Councilors (Denault, White, Lemont), Town Clerk Maryann Place, myself, and two current board chairs (George Dow, Economic Development Committee and Ann Grinnell, Planning Board) met four times to consider changes to Section 4 of Town Code regarding appointments. Following is a summary of our recommendations, and attached are proposed changes to the Code:

1. **Use of Criteria:** We recommend using criteria when considering all appointments. We do not want service to one other "primary" board to be part of the criteria which would give preference to those not serving, but do recommend limiting service to no more than 1 "primary" board¹, with the understanding that appointment to more than one presumes that service to the board does not constitute a conflict of interest (e.g. Board of Appeals (BOA) and Planning Board (PB), Conservation Commission and PB/BOA, etc.). We defined primary vs. secondary as follows:

Primary

Kittery Port Authority (KPA)
Planning Board
Board of Appeals
Parks Commission
Board of Assessment Review
Capital Improvement Program
Conservation Commission

Secondary

Shared Services
Shellfish Conservation
Wood Island Advisory
Mary Safford Wildes
Open Space Committee
Personnel Board
Comprehensive Plan
Economic Development
KCC Board of Directors
Educational Scholarship
Energy Advisory
Cable Television Regulation

¹ Except when acting as a "representative" to another primary board (e.g. Planning Board member serving on the Port Authority)

Registration Appeals Board

2. Appointment Notification: We recommend the Council send a letter to all interviewed applicants thanking them for their interest, and notifying them of their appointment or rejection. Rejected applicants, upon notification to the Town Clerk, may choose to remain on the list, but will be placed at the bottom. For Planning Board and Board of Appeals, rejected applicants will automatically remain on the list unless they notify the Town Clerk of their desire to be removed from it.
3. Term Limits: For the purposes of calculating term limits for boards which have a “3 consecutive terms of 3 years,” we recommend the Council consider actual service of greater than ½ of a term be counted towards a full term. If an appointee serves longer than the term limit due to no qualified successor being appointed, the next appointment term will begin as of the date of appointment of the successor.
4. Term Expirations: We concur with the Town Clerk’s recommendation that seeks to “recalibrate” the end dates of all new appointments to December 31st. More work needs to be done on this as new appointments are made.
5. Removal Procedure: We recommend applying the removal procedure outlined in Title 16 for the PB, BOA, and KPA for all Council appointed officials to boards.
6. Maintenance of the Lists: Applicant forms are recommended to be amended to indicate only one board per form (thus removing the “ranking 1-3” of preference) to ease record keeping. We also asked the Town Clerk to consider sending a letter out every two years to have people on the lists indicate their continued interest in serving and to update their contact information.
7. Appointment Exceptions: We recommend eliminating positions for Council appointment that conflict with the Town Manager’s authority under our Charter. Maine Municipal Legal Services advised us of this conflict (see attached opinion), and Town Counsel Duncan McEachern concurs with this recommendation.
8. New Chapter 4.11 – Kittery Port Authority: We recommend repeating information contained in Title 16 regarding KPA appointments here to consolidate appointment information in Title 4. The Planning Board may recommend removal from Title 16 at a later date, as a “housekeeping” amendment.
9. Relocation of Section 4.2 of the Town Code to Council Rules: We recommend these changes be incorporated, and that the Council then consider removing Section 4.2 from the Town Code and relocating it to a new section of the Council’s rules. During our discussion, it seemed there were numerous instances where flexibility for interpretation was desired, and Council could have the ability to act without going through an ordinance change process in instances that warranted immediate action. Prior to 2010, the “Selection Procedures for Council Appointments” were adopted each year by Council upon reorganization in November.

Title 4 BOARDS, COMMISSIONS and COMMITTEES

Chapter 4.1 ESTABLISHMENT

Town governance requires attention to many demands pursuant to Federal law, Maine Revised Statutes, and the Town Charter. In order to provide for that range of requirements and make provision for citizen participation in community affairs the Boards, authority, commissions and committees addressed herein, are hereby established.

Chapter 4.2 SELECTION PROCEDURES FOR COUNCIL APPOINTMENTS

4.2.1. Purpose.

When subject to council appointment, members of Town Boards, which term includes authority, commission, committee (both standing and ad hoc), and trust are selected using the following procedures.

4.2.2 Objectives.

There are certain general objectives which are critical to the successful functioning of council-appointed Boards among these are:

A. That Boards always have available to them candidates for membership who are qualified for the unique needs of that Board.

B. That each Board maintain the independent posture needed to encourage the free and open dialogue crucial to its function; and

C. That all volunteers are shown the appreciation of the community regardless of whether or not they are appointed to a particular Board.

4.2.3 Procedures.

To achieve these goals, the following procedures for the selection of Board members are adopted:

A. A pool list of applicants will be maintained by the Town Clerk.

B. Volunteers must complete an application indicating on which for each Boards they wish to serve, and in which order of preference. Applicants will be listed in order of precedence set by the date-time of receipt of the completed application by the Town Clerk. Applicants are eligible to serve only one primary board/committee at a time (unless acting as an official designee to another board). Primary boards are defined as follows: Board of Appeals, Board of Assessment Review, Capital Improvement Program, Conservation Commission, Parks Commission, Planning Board, and Port Authority. All other boards are considered secondary. Service on secondary boards is limited to no more than three.

C. No Town employees may be appointed to a Board, except when attendance is required in their official capacity.

RECODIFICATION – ORDAINMENT – 07/26/2010

A. Applicants will be interviewed for the Planning Board or Board of Appeals with at least a quorum present at a regular or special Council meeting. If there are multiple applicants for a Board, they will be interviewed by Council as a group including applicant(s) already interviewed.

B. Criteria listed in Section 4.2.3 H must be used in considering candidates for Planning Board and the Board of Appeals.

B.C. After the interviews are completed, Council, in open session, and by the following meeting, shall nominate, with a second, discussion and vote on the candidate(s) for the open vacancy.

C.D. A tie vote on an appointment shall be voted on by Council twice. Following the second tie vote the Council Chairperson shall determine the winner by lot by a coin toss.

E. Interviewed applicants not appointed may remain on the pool list if they so desire. They must notify the Town Clerk in writing of their interest within one week of being notified of the non-appointment, and they will be placed back on the list. Otherwise, they will be removed from the list.

4.2.5 Appointment Exceptions.

A. Building Committee – when Council-appointed membership is involved, appointment procedure is determined by the sitting Council.

B. Charter Commission – procedure is determined by the sitting Council.

C. Christmas Parade Committee – members recommended by sponsoring group.

D. Rice Public Library Board of Trustees – application and interview procedure applies, but appointment is made by Library Trustees.

E. Newly-formed Boards not existing as of November 1, 2000 – procedure is determined by the sitting Council.

4.2.6 Other Appointments.

~~A. Town Manager, including related positions held by Manager: Interview by Council as part of hiring procedure.~~

~~B. Assistant Code Enforcement Officer, Director of Civil Emergency Preparedness, Plumbing Inspector: Recommendation submitted by Town Manager.~~

~~Registrar of Voters: Recommendation submitted by Town Clerk.~~

~~C.A. Shellfish Warden: Application and interview procedure for Boards applies.~~

~~D.B. Individual positions not enumerated: Procedure determined by sitting Council.~~

terms expire on the same date in their respective years. Members serve conditioned only upon good behavior and may be removed for cause after notice and hearing. However, no member of the Board may serve for more than two consecutive three-year terms. Vacancies occurring during a term are filled by the Town Council for the balance of the term. Members of the Board serve without compensation, but funds will be provided for reasonable and necessary expenses. The Board elects its own chairperson. In addition to the duties set forth elsewhere in this chapter, the Board is to:

1. Advise the Town Manager on matters of personnel policy and problems of personnel administration, including the development of personnel rules, a job classification plan, and a uniform pay plan;
2. Represent the public interest in the improvement of personnel administration in the Town service;
3. Make any inquiry which it may consider desirable concerning personnel administration in the Town service, and make advisory recommendations to the Town Manager, with respect thereto.

4.7.2 Personnel Board Responsible for Hearing Grievances.

The Personnel Board is responsible for hearing grievances involving employees covered by this chapter in the manner and under the provisions specified by this chapter.

4.7.3 Opinions and Decisions of Personnel Board.

All opinions and decisions issued by the Personnel Board are advisory in nature and are issued to the Town Manager and to the employee(s) requesting the grievance hearing or separation/demotion hearing.

4.7.4 Function of Personnel Board Generally.

It is not the Personnel Board's function to exclusively represent the interests of the employee or the employer; it is the Board's function to fairly and impartially represent the interests of both parties and to clearly and continually work for the development of mutual respect, understanding, and cooperation between the parties.

Chapter 4.8 SHELLFISH CONSERVATION COMMITTEE

The shellfish conservation program for the town is administered by the shellfish conservation committee consisting of seven full members and two alternate members appointed by the Town Council for terms of three years. Members serve until their successors are appointed and qualified. Vacancies are filled by town council appointment for the unexpired term.

The Committee's responsibilities include:

- A. Establishing annually in conjunction with the department of marine resources the number of shellfish digging licenses to be issued;
- B. Surveying each clam-producing area at least once every three years to establish size distribution and density and annually estimating the status of the Town's shellfish resources;
- C. Submitting to the Town Council proposals for the expenditures of funds for the purpose of shellfish conservation;

RECODIFICATION -- ORDAINMENT -- 07/26/2010

D. With the approval of the majority of the Town Council, receive gifts in the municipality's name for any of the commission's purposes and administer the gift for those purposes, subject to the terms of the gift; acquire land or easements and trusts, and accept gifts of land or money or easements, for conservation purposes; and

E. Develop and implement a management plan for Rogers Park with approval of the Town Council.

4.9.4 Membership.

A. The town council may appoint at least three, but not more than seven, conservation commissioners. The commissioners are selected from the qualified resident voters of the town. Members are initially appointed for terms of one, two and three years, such that the terms of approximately one third of the members will expire each year. Their successors are appointed for terms of three years each. Members serve until their successors are appointed and qualified. Vacancies are filled by town council appointment for the unexpired term.

B. The Commission may recommend to the municipal officers that associate members be appointed to assist the Commission as the Commission requires. Associate members are nonvoting members, except when a quorum is absent. Their terms of office are to be for one, two or three years. Associate members are selected from the qualified resident voters of the Town.

Chapter 4.10 PARKS COMMISSION

4.10.1 Purpose.

The Town Council may appoint a Parks Commission to provide ongoing citizen recommendations relating to the improvements or development of Town-owned property that is or is likely to be developed into Town parks to insure the preservation, beauty and protection of these most valuable sites.

4.10.2 Duties.

The Commission is to:

A. Recommend to the Town Council an overall park management plan for the identification, protection, development or use of park lands and facilities;

B. Meet with the Town Manager to review and advise, at least twice a year, on the status and progress of the park management plan and other pertinent issues;

C. Coordinate its activities with those of the park, recreation, school and conservation bodies organized for similar purposes;

D. Keep records of commission finances and activities, post agendas and minutes of meetings and make an annual report to the municipality;

E. Assure that any recommended changes affecting municipal park properties are made in conjunction with the Conservation Commission;

RECODIFICATION – ORDAINMENT – 07/26/2010

C. A municipal officer, or spouse thereof, may not serve as a member of the Port Authority.

D. Members serve until their successors are appointed and qualified.

E. No member shall serve more than 2 consecutive terms of 5 years. Any member who has served 2 consecutive terms of 5 years is ineligible to serve on the Board for a period of 1 year. Computation of term limits commences with the first term of 5 years following the effective date of this provision. Computation of term limits does not include service prior to the effective date of this provision nor to terms of fewer than 5 years after the effective date.

F. Vacancies are filled by Town Council appointment for the unexpired term.

443 **III.** Be authorized and empowered to appoint and compensate a harbor
444 master, who will enforce the directives of the authority, such as the
445 placement of moorings, the assignments of anchorage areas and the
446 movement of traffic, and the use of municipally-owned wharves, docks,
447 piers and landings.

448
449 **Sec. 3. Powers and duties.** In order to enable it to carry out the
450 purposes hereof, the authority shall:

451
452 **I.** Have the authority to make all necessary arrangements with other
453 port authorities of the State of Maine, other states and federal
454 departments and agencies for the interchange of business, and for such
455 other purposes as will facilitate and increase the purposes of this
456 authority.

457
458 **II.** Establish offices for the transaction of its business at such
459 places as, in the opinion of the authority, shall be advisable and
460 necessary in carrying out the purposes hereof.

461
462 **III.** Be authorized and empowered to appoint and compensate a harbor
463 master, who will enforce the directives of the authority, such as the
464 placement of moorings, the assignments of anchorage areas and the
465 movement of traffic.

466
467 **IV.** Be authorized to raise funds for defraying the costs of
468 administration and operation of the authority and projects under its
469 supervision, through fund appropriation articles in the Town warrant,
470 submitted for consideration at any Town meeting, and through any and
471 all other sources of revenue authorized by this act.

472
473 **V.** Be custodian of municipally-owned wharves, docks, piers and
474 landings.

475
476 **Sec. 4. Rules and regulations.** Said authority may make such
477 ordinances, rules and regulations touching municipally-owned wharves,
478 docks, piers and landings, port captains, pilots and pilotage, harbors
479 and harbor masters, for the areas herein defined as it may deem proper
480 and from time to time may modify, rescind or alter the same. Said
481 rules and regulations shall have the force and effect of law. Said
482 authority shall fix the fees of pilotage and a table of such fees
483 shall be attached to the commission of each pilot.

484 **Sec. 5. Pilots.** The authority may prescribe the qualifications of
485 pilots, and from time to time appoint and commission, under its hand
486 and seal, as many pilots as it may judge necessary, and remove the
487 same at pleasure, and it shall take from them such security, by bond
488 or otherwise as it may deem proper.

489

Sec. 11. Authorization to establish foreign-trade zones and free port areas.

I. Said authority is authorized to make application to the Secretary of Commerce of the United States for the purpose of establishing, operating and maintaining foreign-trade zones in the area herein described, under the Act of Congress passed at the second session, 73rd Congress, providing for the establishment, operation and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes.

II. Said authority shall have full power and authority to select and describe the location of the zone for which application to establish may be made and to make such rules and regulations concerning the operation, maintenance and policing of same as may be necessary to comply with the Act of Congress creating said foreign-trade zones, or as may be necessary to comply with such rules and regulations made in accordance with the Acts of Congress, relating to foreign-trade zones.

III. Said authority shall have full power and authority to lease the right and erect, maintain and operate any structures or buildings or enclosures as may be necessary or proper for the establishing and operating any such foreign-trade zones that might be established in the area herein described under and by virtue of said act of the 2nd session of the 73rd Congress.

IV. The authority hereby granted to said port authority confers on said port authority the right and duty to do all things necessary and proper to carry into effect the establishing, maintaining and operating of foreign-trade zones within the area herein described to comply in full with the provisions of said Act of Congress and all regulations that might be made thereunder.

V. The Town of Kittery Port Authority shall have the power and the duty to establish in the area herein described an area wherein personal property in transit shall be exempt from the provisions of the stock-in-trade tax and other such taxes and customs as are normally levied in a port of entry. For the purpose of this section, personal property in transit through the areas established by this port authority is defined as follows: Goods, wares and merchandise which is (1) moving in interstate or international commerce through or over the areas hereinbefore established, or (2) which was consigned to a warehouse, public or private, within the Town of Kittery, whether specified when transportation begins or afterward.



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: _____

RESIDENCE: _____

MAILING (if different) _____

E-MAIL ADDRESS: _____ PHONE #: (Home) _____ (Work) _____

Please check your choices and list in order of priority by marking 1,2,3, etc.:

- | | |
|--|---|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Board of Assessment Review |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Comprehensive Plan Update Committee | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Recycling Scholarship Selection Committee | <input type="checkbox"/> Economic Development Committee |
| <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Port Authority | <input type="checkbox"/> Planning Board |
| <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Other _____ |

EDUCATION/TRAINING: _____

RELATED EXPERIENCE (Including other Boards and Commissions) _____

PRESENT EMPLOYMENT: _____

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY ☐ Yes ☐ No

ANY KNOWN CONFLICT OF INTEREST (please read back of application): _____

REASON FOR APPLICATION TO THIS BOARD: _____

I HAVE ___/HAVE NOT ___ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

SIGNATURE OF APPLICANT

DATE

Title 30-A: MUNICIPALITIES AND COUNTIES

§2605. Conflicts of interest

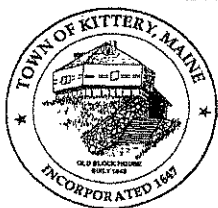
1. Voting. The vote of a body is voidable when any official in an official position votes on any question in which that official has a direct or an indirect pecuniary interest.

4. Direct or indirect pecuniary interest. In the absence of actual fraud, an official of a body of the municipality, county government or a quasi-municipal corporation involved in a question or in the negotiation or award of a contract is deemed to have a direct or indirect pecuniary interest in a question or in a contract where the official is an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity to which the question relates or with which the unit of municipal, county government or the quasi-municipal corporation contracts only where the official is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity.

When an official is deemed to have a direct or indirect pecuniary interest, the vote on the question or the contract is not voidable and actionable if the official makes full disclosure of interest before any action is taken and if the official abstains from voting, from the negotiation or award of the contract and from otherwise attempting to influence a decision in which that official has an interest. The official's disclosure and a notice of abstention from taking part in a decision in which the official has an interest shall be recorded with the clerk or secretary of the municipal or county government or the quasi-municipal corporation.

A. This subsection does not prohibit a member of a city or town council or a member of a quasi-municipal corporation who is a teacher from making or renewing a teacher employment contract with the municipality or quasi-municipal corporation for which the member serves.

6. Avoidance of appearance of conflict of interest. Every municipal and county official shall attempt to avoid the appearance of a conflict of interest by disclosure or by abstention.



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

PLEASE CHECK APPROPRIATE SQUARE:

- ☐ **APPLICATION FOR RE-APPOINTMENT TO TOWN BOARDS**
- ☐ **APPLICATION FOR APPOINTMENT FROM ALTERNATE TO FULL MEMBER**
- ☐ **APPLICATION FOR APPOINTMENT FROM FULL MEMBER TO ALTERNATE**

NAME: _____

RESIDENCE: _____

MAILING ADDRESS IF DIFFERENT FROM ABOVE: _____

E-MAIL ADDRESS: _____

TELEPHONE NUMBERS: (HOME) _____ (WORK) _____

PRESENT POSITION: _____

PLEASE CHECK APPROPRIATE SQUARE:

- | | | |
|---|---|--|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Port Authority | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Planning Board | <input type="checkbox"/> Shellfish Conservation Comm. |
| <input type="checkbox"/> Board of Assessment Review | <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Cable TV Rate Regulation Board | <input type="checkbox"/> Personnel Board | <input type="checkbox"/> Recycling Scholarship Selection Committee |
| <input type="checkbox"/> Other _____ | | |

COMMENTS: _____

SIGNATURE OF APPLICANT

DATE

Title 30-A: MUNICIPALITIES AND COUNTIES

§2605. Conflicts of interest

1. Voting. The vote of a body is voidable when any official in an official position votes on any question in which that official has a direct or an indirect pecuniary interest.

4. Direct or indirect pecuniary interest. In the absence of actual fraud, an official of a body of the municipality, county government or a quasi-municipal corporation involved in a question or in the negotiation or award of a contract is deemed to have a direct or indirect pecuniary interest in a question or in a contract where the official is an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity to which the question relates or with which the unit of municipal, county government or the quasi-municipal corporation contracts only where the official is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity.

When an official is deemed to have a direct or indirect pecuniary interest, the vote on the question or the contract is not voidable and actionable if the official makes full disclosure of interest before any action is taken and if the official abstains from voting, from the negotiation or award of the contract and from otherwise attempting to influence a decision in which that official has an interest. The official's disclosure and a notice of abstention from taking part in a decision in which the official has an interest shall be recorded with the clerk or secretary of the municipal or county government or the quasi-municipal corporation.

A. This subsection does not prohibit a member of a city or town council or a member of a quasi-municipal corporation who is a teacher from making or renewing a teacher employment contract with the municipality or quasi-municipal corporation for which the member serves.

6. Avoidance of appearance of conflict of interest. Every municipal and county official shall attempt to avoid the appearance of a conflict of interest by disclosure or by abstention.

Nancy Colbert Puff

LEGAL OPINION ON

APPOINTMENT AUTHORITY

From: Chris DiMatteo
Sent: Monday, December 01, 2014 11:17 AM
To: Legal Services Department
Cc: Nancy Colbert Puff; Duncan McEachern
Subject: RE: Kittery - Code Enforcement Officer appointment

Hi Becky,

Thanks again for the time in helping to clarify this matter.
We'll let you know how it panned out.

Best regards,

Chris

From: Legal Services Department [mailto:Legal_Services_Department@memun.org]
Sent: Monday, December 01, 2014 10:17 AM
To: Chris DiMatteo
Subject: RE: Kittery - Code Enforcement Officer appointment

Hi Chris,

Most of the provisions of section 4.2.6 of the Code are inconsistent with section 3.04 of the town charter, in my opinion. Section 3.04 of the charter authorizes the town manager to appoint "all statutory officers and department heads." It then goes on to authorize the town manager to delegate authority to department heads to appoint subordinates, which suggests that the town manager would otherwise appoint those subordinates as well. Section 2.07 of the charter expressly addresses appointments by the Council and only mentions the town manager and boards and committees. For the purposes of the list of positions in section 4.2.6 of the Code, the plumbing inspector, director of civil emergency preparedness, and registrar of voters are statutory officers who would be appointed by the town manager under section 3.04 of the charter; the charter would trump those parts of section 4.2.6 of the Code. The shellfish warden arguably is also a statutory officer under 12 MRSA section 6671(8). The assistant CEO position is not expressly addressed in the statutes so probably doesn't qualify as a "statutory officer," but arguably the town manager has implicit authority to make that appointment pursuant to section 3.04 of the charter based on the manager's authority to delegate appointment power over subordinates to department heads. The CEO is a statutory officer under 38 MRSA section 441, at least for shoreland zoning enforcement purposes, so would fall within the town manager's power to appoint under section 3.04 of the charter, in my opinion. Title 4 of Code is entitled "Boards, Commissions and Committees," which suggests that the original Code drafters interpreted the Council's appointment authority under the charter as being more limited than section 4.2.6 of the Code would suggest.

Is there any discussion in a charter commission report prepared in connection with the original charter or subsequent charter revisions that would help shed some light on the intended powers of appointment held by the town manager and Town Council? I assume that Duncan MacEachern is still the town's private attorney. I know he has served in that capacity for many years and probably helped draft the various versions of the Kittery charter and certified their consistency with State law. It would be worth discussing these appointment issues with him, if you haven't already done so. Ultimately, the ambiguity in/apparent conflicts between the charter and Code provisions regarding appointment power should be resolved by the adoption of appropriate amendments.

I hope this helps.

Sincerely,
Becky

From: Christine Bragg
Sent: Monday, December 01, 2014 9:01 AM
To: Chris DiMatteo
Subject: Kittery - Code Enforcement Officer appointment

Chris, MMA Legal Services has received your ongoing inquiry. It has been assigned to our attorney, Rebecca Seel, who will respond as soon as possible. Our response time may vary depending on the volume of inquiries, the nature and complexity of your inquiry, and current staffing. We appreciate your understanding and cooperation.

If you have a specific deadline, please let us know.

Thank you. Christine Bragg, Legal Services Department

Christine Bragg, Administrative Assistant
Legal Services Department

Maine Municipal Association
60 Community Drive, Augusta, ME 04330
1-800-452-8786 (in state)
207-623-8428
FAX 207-624-0187
legal@memun.org

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From: Chris DiMatteo [<mailto:CDiMatteo@kitteryme.org>]
Sent: Wednesday, November 26, 2014 3:05 PM
To: Legal Services Department
Cc: Nancy Colbert Puff; Duncan McEachern
Subject: RE: Kittery - Code Enforcement Officer appointment

Thank you Becky, appreciate your time helping us figure this one out.

We did find one odd twist in the Town Code Section 4.2.6 Other Appointments.
Here it lists several non-board/committee appointments.
Interesting enough it doesn't include the Code Enforcement Officer, but the Asst CEO and Plumbing Inspector.

How would this square with the Charter?
Does the charter trump the Code?

Enjoy the Thanksgiving holiday!

Chris

From: Legal Services Department [mailto:Legal_Services_Department@memun.org]
Sent: Wednesday, November 26, 2014 2:05 PM

To: Chris DiMatteo

Subject: RE: Kittery - Code Enforcement Officer appointment

Dear Chris,

Since Kittery has a home rule charter, the town's charter provisions and ordinances govern the authority of the town manager, town council and department heads to make appointments of various town officials and to hire other employees. The statutory town manager plan in Title 30-A is not controlling in Kittery. The power to make appointments is governed by the town's home rule charter and ordinances in Kittery generally. The charter and ordinances supersede the appointment provisions in the general statutes.

Section 2.07(1) of the town charter addresses the appointment powers of the town council and states that the council has the power to appoint the town manager and all members of town boards. Section 3.04 of the charter provides that the town manager appoints all statutory officers and department heads; that section also states that the manager may authorize department heads to appoint subordinates. It appears that the Kittery charter does not vest the power of appointment in the town council for any positions other than town manager and board members. It also does not appear to give the council the power to confirm the manager's appointment of department heads, as is the case in 30-A MRSA section 2636 (statutory town manager plan). Section 2.11 of the charter prohibits the council from dictating the appointment of an officer or employee whom the town manager or a department head has the power to appoint, though it does authorize the council to express an opinion to the manager. Title 2 of the town's code of ordinances addresses additional appointment and supervisory issues regarding town personnel and is consistent with the charter provisions cited above. Section 2.4.2.5 specifically addresses the position of code enforcement officer. It doesn't state who appoints the CEO but does state that the CEO reports to the town planner. In my opinion section 3.04 of the charter vests the power of appointment in the town manager with regard to the statutory office of CEO, unless the town manager has delegated that authority to the department head. The power to make the initial appointment carries with it the power to appoint someone to fill a vacancy, in the absence of a charter or ordinance provision to the contrary. Again, because I believe the town manager has the authority to appoint the CEO, not the council, it is my opinion that the town manager who has the authority to appoint someone to fill a vacancy in that position on an interim basis or a permanent basis, unless that authority has been delegated to the department head.

Until the charter and applicable ordinances are amended to give the council an official role to play in making appointments of statutory officers or employees, I don't see a legal basis for council approval of the appointment of a CEO in Kittery.

I hope this is helpful. Feel free to follow up with me if you have additional questions about this. Have a good Thanksgiving.

Sincerely,
Becky

Rebecca Warren Seel , Senior Staff Attorney
Legal Services Department
Maine Municipal Association
60 Community Drive, Augusta, ME 04330
1-800-452-8786 (in state)
207-623-8428
FAX 207-624-0187

legal@memun.org <<mailto:legal@memun.org>>

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From: Christine Bragg
Sent: Tuesday, November 25, 2014 8:56 AM
To: Chris DiMatteo
Subject: Kittery - Code Enforcement Officer appointment

Chris, MMA Legal Services has received your inquiry. It has been assigned to one of our attorneys, who will respond as soon as possible. Our response time may vary depending on the volume of inquiries, the nature and complexity of your inquiry, and current staffing. We appreciate your understanding and cooperation.

If you have a specific deadline, please let us know.

Thank you. Christine Bragg, Legal Services Department

Christine Bragg, Administrative Assistant
Legal Services Department

Maine Municipal Association
60 Community Drive, Augusta, ME 04330
1-800-452-8786 (in state)
207-623-8428
FAX 207-624-0187
legal@memun.org

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From: Chris DiMatteo [<mailto:CDiMatteo@kitteryme.org>]
Sent: Monday, November 24, 2014 5:43 PM
To: Legal Services Department
Subject: Kittery - Code Enforcement Officer appointment
Importance: High

Hi,

I was hoping you might be able to help out with some questions regarding appointments.

It was mine and the Town Manager's opinion that though the State Statute states the 'municipal officers' appoint the CEO, that under a Town Manger form of government the Manger makes the appointment.

Our Town Charter actually has the Town Manager responsible for appointing all statutory positions, however, the Town Council is in the practice of appointing the CEO every year, not sure how long that practice is.

Can you shed some light on this, as December is close upon us and this is when the Council has made such appointments in the past.

Here is a link to our Town Code and Charter. http://www.kitteryme.gov/Pages/KitteryME_WebDocs/docs

In addition, does this annual appointment by the municipal officers include interim positions where a CEO has resigned and the permanent position is vacant?

We currently have an interim CEO appointed by the Town Manager.

Thanks for your help.

Chris

Christopher Di Matteo

Interim Town Planner

200 Rogers Road, Kittery Maine 03904

(207) 439-6807 Ext. 303 / (207) 475-1323 (Direct Line)

cdimatteo@kitteryme.org

Decision and Order of the Kittery Town Council
Acting as the Municipal Officers

Re: Dangerous Building (40 Old Post Road
in Kittery; Tax Map 8, Lot 25)

A. Findings of Fact

Based on the parties' presentations--both the sworn testimony of the four witnesses and Mr. Dineen as the property owner, and the documentary evidence presented by the Fire Chief and Mr. Dineen, the Town Council makes the following findings:

1. The Kittery Town Council, acting as the "municipal officers" for the Town of Kittery, convened at a properly called and noticed meeting on March 9, 2015 at 7 pm in the Town Council Chambers at the Kittery Municipal Offices. The procedure was a hearing pursuant to state statute to determine whether the small building located on a small lot or parcel of land on the generally southeasterly side of the Old Post Road (Lot 25 on Town Tax Map 8), with a street address of 40 Old Post Road (the "Property"), constitutes a so-called "dangerous building" within the meaning of the applicable Maine statute, 17. M.R.S. Sec. 2851, and, if so, what the disposition of the same should be.
2. All seven members of the Town Council were present; one of the Councilors, Frank Dennett, was recused from partici-

pating in the hearing based on prior business dealings with the property's apparent owner, James Dineen. Mr. Dineen appeared on his own behalf and stated that he was the owner of the Property by virtue of an unrecorded 2004 deed from the Personal Representative of his late mother's estate. He further indicated that he had seen a legal notice of the hearing in the Portsmouth Herald, a local newspaper of general circulation in Kittery, which legal notice had run for three successive weeks, as Town officials had been unable to ascertain in advance of the hearing who owned the Property beyond the record owner, the Estate of Ruth Dineen, who had died in 1995. Mr. Dineen stated that he had also received a written notice of the time and place of the hearing in a plain, unmarked envelope hand-addressed to him and stated that he may, or may not, have been at home when a York County Deputy Sheriff made repeated, unsuccessful attempts to serve him in hand with that notice.

3. Attorney Duncan McEachern represented the Town Council during the hearing; Attorney William Dale represented the Town staff presenting the case to the Town Council; and Mr. Dineen said he is a lawyer and was representing himself. All fact witnesses were sworn and testified under oath: the Fire Chief David O'Brien; the Police Chief, Theodore Short; the Code Enforcement Officer Robert Marchi; and one member of the public, David Lincoln. Mr. Dineen was also sworn in.

4. The Fire Chief testified that he has served as the Kittery Fire Chief for the past 17 years and stated his extensive experience and training as a fire fighter. He also testified that he had grown up in Kittery and was very familiar over the years with the Property at issue in the hearing. He testified that he had been to the Property recently and confirmed that the building is in a dilapidated state of gross disrepair, and that a series of recent photographs he introduced in evidence accurately depicted the same. In particular, he testified that the one story building had a basement underneath it and that a very large section of the first floor had fallen into the basement and that it appeared that more of the floor might well fall in if weight were put on it. He also testified that the walls had buckled such that the structural integrity of the building as a whole was severely compromised and that the front end of the building was beginning to collapse. He further stated that given the very dilapidated state of the building, especially with the first floor so substantially compromised, he would not want his firefighters to enter the building in the event of an on-site emergency because their safety would be so at risk. The building is also near to other potentially flammable objects such as a literally burned out bus and other buses and an assortment of old tires on the same lot and the building is located close to a

nearby occupied residential building. He felt that in his opinion the building would not be economic to repair. He felt that children or others could get into the building and would be in a dangerous situation and any rescue efforts would put his firefighters in a dangerous situation.

5. The Police Chief stated that he agreed with the Fire Chief's testimony regarding the status and dangerous condition of the building. He also confirmed the Fire Chief's testimony that the photographs accurately depicted the very unstable and unsafe state of the building. The Police Chief also testified it would be a hazard to the health and safety of police officers if they had to go inside the building. The Code Enforcement Officer, who is also the Kittery Health Officer, also agreed with the Fire Chief's testimony and, in addition, raised the specter that the sanitary sewer line from the building may not have been properly "capped off." The failure to cap off the sewer connection, if it were the case, could create a sort of Petri dish effect that could create a problem with bacteria and posed a health hazard. Mr. Dineen admitted that he did not know whether the sewer line had been capped off.
6. Mr. Dineen conceded that he owned the building and that the photos accurately depicted its current state. He admitted that he had not given the building any maintenance in many years. He said there has been no power to the structure

since maybe 10 years ago nor any heat in the building during the same period. He said he has no present plans for the building and that he was last in the building about six months ago and had to walk around very carefully because of the collapsed floor inside. He said he had to walk around so as to avoid getting too close to the edge of the remaining floor in order to prevent himself from falling into the basement. He debated with the Fire Chief, however, as to whether the building was easily accessible to trespassers. On balance the Town Council finds the building would be relatively easy for third parties to enter, an especially troublesome possibility given its immediate proximity to a local skating pond used by youngsters in the neighborhood. Mr. Dineen admitted that he had sufficient money to have the building razed, but did not want to do so.

B. Conclusions

Based on the above, the Town Council makes the following conclusions:

1. Mr. Dineen is the property's owner, even though that could not be confirmed until he so testified during the hearing. Although Mr. Dineen purported to "preserve" any objections about the adequacy of the Town's notice to him, there was no question that the proper notice had been published in the Portsmouth Herald for three weeks in advance of the hearing when the ownership was still

uncertain (Ruth Dineen had died in 1995). Mr. Dineen, by his own admission said that he had seen the newspaper legal notice, that he finally admitted that he owned the property by virtue of his unrecorded 2004 deed arising out of his mother's death in 1995, and that he had also received in the mail a copy of the written notice prepared by the Town and sent to his home in a plain, unmarked envelope. He said that he discussed this Notice with the Town Clerk while he was in the Town Hall about a week or two before the hearing date of March 9, 2015. Similarly, he identified no prejudice in terms of the timing of the notices and his ability to prepare for the hearing. Mr. Dineen retained a recorder and had her attend and transcribe the hearing.

2. The photographs submitted by the Fire Chief, as validated by his sworn testimony, and as admitted to by Mr. Dineen, leave no doubt that the Property is a "dangerous building" within the meaning of the statute as it is without question structurally unsafe, unstable, unsanitary and constitutes a health and safety hazard to the public. Mr. Dineen's protestations to the contrary that the building is locked and has not been broken into in the last ten years do nothing to allay the Town Council's very serious concerns for the public safety of the neighboring properties, the neighboring residents and children and the risk to the Town's fire, police, and other safety personnel if a fire

should break out, especially surrounded by the half-burned out bus and rubber tires that can intensify a fire.

Similarly, if trespassers (especially children) should enter the building, get hurt due to the unstable condition of the building and then need to be rescued by the Town's public safety personnel, the public safety risk presented would be totally unacceptable.

Decision

Based on the above findings of fact and conclusions, the Town Council finds that the building on the Property is a "dangerous building" within the meaning of the state statute. Further, the building's state of disrepair is such that no one would reasonably conclude that it can be repaired. The Council finds that the building must be razed and the debris disposed of in a lawful and environmentally appropriate manner. There is no reason the taxpayers of Kittery should shoulder that burden as Mr. Dineen admitted that he could pay for the same, but simply did not want to do so.

The Town Council by a vote of 6 to 0 (with one member recusing himself) finds the building located on the Property located at 40 Old Post Road, Map 8, Lot 25, meets the conditions of the Maine state statute in that it is so unstable, so unsafe and so much a hazard to public safety because of inadequate maintenance and dilapidation that it constitutes a "dangerous building" within the meaning of the statute and that it must be

razed within thirty (30) days of the date this Decision and Order becomes final. All such demolition and removal expenses and all other expenses as set forth in M.R.S. § 2853 shall be at the owner's sole expense and shall be repaid by the owner to the Town of Kittery within 30 days after demand upon the owner or a special tax may be assessed against the land at 40 Old Post Road and the Town may proceed with all other remedies for collection available to it pursuant to 17 M.R.S. § 2853.

The Town Clerk shall cause an attested copy of this Decision and Order to be recorded as required by law and cause an attested copy of the same to be served on James Dineen as required by law. Any appeal from this decision must be made to the Maine Superior Court (York County) within 30 days after the date of this Decision and Order.

Dated: April _____, 2015

By: _____
Jeffrey Thomson, Chairperson

Councilor Jeffrey Pelletier

Councilor Charles Denault

Councilor Judy Spiller

Councilor Russell White

Councilor Kenneth Lemont



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

MAP P LOT 25

PATRICIA W. AHO
COMMISSIONER

CERTIFIED MAIL # 7010 1060 0000 0399 2215

April 18, 2012

Jim Dineen
Dineen Coach Company
40 Old Post Road
Kittery, Maine 03904

RE: Maine's Multi-Sector General Permit for Stormwater Discharge Associated with Industrial Activity – Letter of Warning

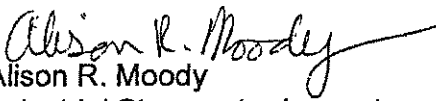
Dear Mr. Dineen,

This notice is a follow up to my original Department Letter dated October 31, 2011, requesting compliance with Maine's Multi-Sector General Permit (MSGP) for Stormwater Discharge Associated with Industrial Activity.

As mentioned in the October 31st letter, Dineen Coach facility located on Old Post Road in Kittery falls under Sector P of Maine's MSGP and a Notice of Intent to Comply must be filed with the Department for permit coverage. Please see the attached October 31st letter for further details on permit requirements.

Please contact me immediately so I may provide technical assistance to you regarding requirements of Maine's MSGP. I have attached all forms mentioned in the October 31st letter again to further help you. If a Notice of Intent is not filed by April 25, 2012, further action may be taken.

Sincerely,


Alison R. Moody
Industrial Stormwater Inspector
Maine DEP
312 Canco Road
Portland, Maine 04103
(207) 615-8936
Alison.r.moody@maine.gov

Cc: Town of Kittery, CEO File ✓

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
166 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 760-3143

MAPP 8 WT 25



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

October 31, 2011

Jim Dineen
Dineen Coach Company
40 Old Post Road
Kittery, Maine 03904

RE: Maine's Multi-Sector General Permit for Stormwater Discharge Associated with Industrial Activity

Dear Jim,

On October 19, 2011, I stopped by Dineen Coach Company located in Kittery. The primary purpose of my visit was to evaluate the potential for coverage under Maine's Multi-Sector General Permit (MSGP) for Stormwater Discharge Associated with Industrial Activity. David McCaskill with the Department's Bureau of Remediation & Waste Management was also present during the visit.

Sector P under Maine's MSGP covers Land Transportation & Warehousing facilities which discharge stormwater to waters of the State from facilities which have industrial activities such as fleet maintenance or fueling. Although no one was around during my visit, it appears fleet maintenance occurs outside the garage. Based on this, coverage under Maine's MSGP is required and a Notice of Intent (NOI) to Comply with Maine's MSGP must be filed with the Department. There is an annual fee of \$300.00 which must be submitted along with the facility's NOI. Please, complete the attached NOI form and send to the address noted on the form.

Compliance with the MSGP requires the development and implementation of a Stormwater Pollution Prevention Plan (SWPPP) which describes how a facility operates, identifies potential pollutants, and describes structural or operational Best Management Practices (BMPs) which must be developed and implemented to reduce/eliminate potential pollutants from coming into contact with Stormwater. Operational BMPs include good housekeeping practices, spill response procedures, and fleet storage BMPs, etc. Please see Part V of the attached MSGP for complete details of SWPPP requirements. I have attached a couple model SWPPPs for you to review. These models are not an exact match for your facility but may help you develop your own site specific plan. A draft SWPPP must be sent to the Department for review by December 1, 2011. If you need any assistance in developing your SWPPP please don't hesitate to ask. One immediate concern which should be addressed and identified in your SWPPP is fleet storage adjacent to Legion Pond. There appeared to be at least one bus which was stored very close if not hanging directly over the pond which should be moved back.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04679-2094
(207) 764-0477 FAX: (207) 760-3143

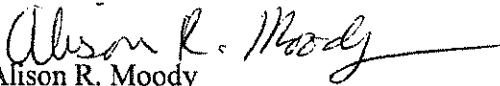
Dineen Coach Company
October 31, 2011
Page 2 of 2

Visual monitoring, a permit requirement, must be preformed on a quarterly basis and all records of the monitoring must be kept with your SWPPP. I have attached a visual monitoring guidance document to this letter which also includes a monitoring form with instructions which will help you implement proper monitoring procedures. Visual monitoring must begin during this quarter (October, November, December). Please send a copy of this quarter's monitoring report to the Department for review. If you have any questions or need assistance with monitoring please let me know.

The MSGP also requires you to conduct quarterly site inspections of your facility. All activity areas, storage areas, drainage, etc. must be included during the inspections. Records of these inspections must be kept with your SWPPP. I have attached a model site inspection form you can use at your facility. Site inspections must begin this quarter (October, November, December). Please submit this quarter's inspection log to the Department for review.

Please contact me so we can further discuss operations at the Dineen Coach Company facility, Maine's Multi-Sector General Permit and possibly schedule a technical assistance visit to go over requirements.

Sincerely,


Alison R. Moody

Industrial Stormwater Inspector
Maine DEP
312 Canco Road
Portland, ME 04103
Alison.r.moody@maine.gov

Cc: Town of Kittery, CEO File ✓



SARAH O. LEWIN

PH. 207-439-0354

46 CASLYN DRIVE

ELIOT, ME 03903

52-7450/2112

5901

DATE 3/13/15

PAY TO THE
ORDER OF

Kittery Community Center
Fifty \$ *50⁰⁰/₁₀₀*

DOLLARS



Security Features
Included
Check on Back.

Kennebunk Savings

MEMO

Check use *Sarah O. Lewin* MP

⑆211274502⑆ 43 022356 5901

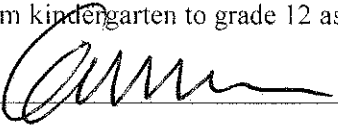
**NOTICE OF AMOUNTS ADOPTED AT TOWN COUNCIL MEETING
FOR VOTERS AT SCHOOL BUDGET
VALIDATION REFERENDUM**

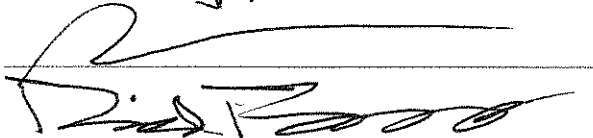
TO: Clerk of Town of Kittery, State of Maine

Pursuant to 20-A M.R.S.A. §1486 (2) and 2307 this Notice is to be displayed at all polling places for the school budget validation referendum to be held on June 9, 2015, to assist the voters in voting on whether to ratify the school budget approved at the May 11, 2015 Town Council Meeting.

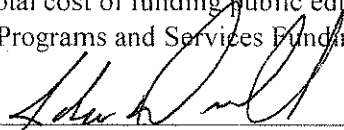
Cost Center Summary Budget Category	Amount Recommended by School Committee
01-Regular Instruction	\$6,145,815.14
02-Special Instruction	\$2,751,900.50
03-Career & Technical Education	\$6,380.00
04-Other Instruction	\$314,852.54
05-Student & Staff Support	\$1,597,277.16
06-System Administration	\$520,657.57
07-School Administration	\$968,912.65
08-Transportation	\$540,373.19
09-Facilities Maintenance	\$1,456,822.47
10-Debt	\$1,088,367.51
11-All Other Expenditures	\$70,000.00
Summary of Total Authorized General Fund Expenditures	\$15,461,358.73
Amount Approved at the Town Council Meeting on May 11, 2015	

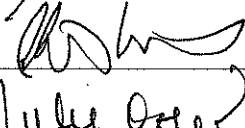
The amount approved for the school budget at the Town Council meeting includes locally raised funds over and above the Town's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act.



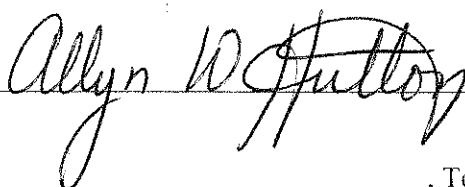
 Kimberly Bedard


 A majority of the School Committee





 Julie Orr

Completed and countersigned by:  3/23/2015

A true copy of the Notice, attest: _____, Town Clerk of Kittery

**Articles for
Town Meeting/Secret Ballot Vote
June 9, 2015**

Article 2: Shall the town vote to authorize Town Council to transfer up to \$125,000 from unassigned funds (unencumbered surplus) and appropriate and expend up to \$125,000 when necessary into account #2022 Compensated Absences, to maintain a positive fund balance to pay for accrued vacation and /or sick leave to settle any unpaid benefits owed to retiring employees in FY'16?

Town Council Recommends - Vote: Yes No

Explanation: The purpose of this article is to provide funds when and if necessary in FY'16, to pay for accrued benefits owed retiring employees. This article transfers funds from the town's unassigned funds (unencumbered surplus) when a municipal employee retires. The reserve account balance is currently \$15,337.04. The purpose of this article in FY'16 is to pay only claims during the year to meet the town's liability and to return the reserve fund to a positive balance.

Article 3: Shall the town vote to authorize Town Council to transfer an amount not to exceed \$25,000 from unassigned funds (unencumbered surplus) when necessary and appropriate and expend up to \$25,000 for the purpose of paying the town's cost on accepted insurance claims against the town?

Town Council Recommends - Vote: Yes No

Explanation: The article requests exposing up to \$25,000 from the town's unassigned funds (unencumbered surplus) for use, when necessary, to pay the deductible and other associated costs on insurance claims instead of raising an amount from taxation within the town budget.

Article 4: Shall the town vote to authorize Town Council to transfer an amount not to exceed \$100,000 from unassigned funds (unencumbered surplus) when necessary and appropriate and expend up to \$100,000 for the purpose of providing the town's match to federal, state and non-profit grants?

Town Council Recommends - Vote: Yes No

Explanation: The Town Council expects continued applications to be filed for grants in a variety of areas by different town departments to assist with the operations and capital purchases. These grants, if successful, often require a local match to be raised. The article requests that up to \$100,000 from the town's surplus be transferred by the Town Council for the local match share of grants when received and accepted by the Town Council.

Article 5: Shall the town vote to authorize Town Council to transfer from unassigned funds (unencumbered surplus) an amount not to exceed \$40,000, when necessary and appropriate, and expend said amount to cover shortfalls in the FY'16 town departments' fuel accounts due to the unpredictable fuel pricing markets?

Town Council Recommends - Vote: Yes No

Explanation: The article is a result of the review of individual departments' vehicle and heating fuel accounts and the unstable fuel market pricing. This account would provide departments, who have exhausted their allocated fuel budgets, access to emergency fuel funds. The Town Council favored keeping the FY'16 fuel and utility accounts as low as possible, with the concept of this article exposing surplus funds as a safety net in case the market remains unstable.

Article 6: Shall the town vote to authorize Town Council to transfer an amount not to exceed \$40,000 from unassigned funds (unencumbered surplus) when necessary and appropriate and expend said amount for the purpose of providing the town's General Assistance Program as required by town, state and federal laws in FY'16?

Town Council Recommends - Vote: Yes No

Explanation: The General Assistance Program is budgeted from the town's operational budget each year. The program assists town citizens with welfare type services by following very strict state and federal guidelines for income eligibility within the General Assistance Ordinance. This article proposes to create a method, as in past years, for the Town Council to keep the General Assistance budget at level funding. If the General Assistance costs exceed the budget, this article would allow the Council to transfer an amount up to \$40,000 from surplus to cover the overage.

Article 7: Shall the Town vote to authorize Town Council to transfer an amount not to exceed \$50,000 when necessary from the unassigned funds (unencumbered surplus) and to appropriate and expend said amount at the discretion of the Town Council to pay for emergency repairs and energy efficiency improvements to town-owned facilities that are not contemplated in the regular FY'16 operating budget?

Town Council Recommends - Vote: Yes No

Explanation: Occasionally, repairs to town facilities are needed that have not been budgeted. In addition, energy efficiency projects are being identified to further save the town funds. This Article allows the Town Council the discretion to make emergency facility repairs and undertake energy efficiency projects through the use of up to \$50,000 from the Town's unassigned funds (unencumbered surplus).

BUSINESSCARD RESOLUTION FORM
FOR THE
Town of Kittery

Officer's Certificate Regarding
BusinessCard Agreement Authorization

The undersigned, the Council of the Town of Kittery a Municipality created under the laws of the State Of ME, hereby certifies that the following resolutions were adopted by the ***(Town Council)*** of the ***(Town of Kittery)*** at a meeting duly called and held on the 13th day of April, 2015 at which a quorum was present and acting throughout, and that such resolutions are now in full force and effect:

RESOLVED, that the following officer(s) of this municipality:

Name

Nancy Colbert Puff
Cindy Saklad

Title

Town Manager/Treasurer
Finance Director

are hereby authorized and empowered, for and in behalf and in the name of the (Town of Kittery) (i) to execute and deliver to People's United Bank (the "Bank") a BusinessCard Application for business purposes (the "agreement") setting forth the conditions on which the Bank shall on request issue MasterCard ("Credit Cards") jointly in the names of this municipality and authorized employees or other persons, for use only in connections with the business of this municipality, and (ii) to perform any act and to execute and deliver all instruments and documents which may be deemed necessary to carry out the purposes of the Agreement and these resolutions.

BE IT FURTHER RESOLVED, that each employee or other person designated in writing to the bank at any time for the purposes of the Agreement by any officer named in the immediately preceding resolution, is hereby authorized to use the Credit Card(s) issued pursuant to the Agreement in the joint names of such employee or other person and this municipality, and to charge purchases for the amount of this municipality by means of such Credit Card(s) and in connection therewith to sign sales drafts on behalf of this municipality evidencing such purchases.

BE IT FURTHER RESOLVED, that the bank be requested to extend credit to this municipality up to a maximum of \$40,000.00 any time outstanding with respect to charges for the account of this municipality pursuant to the provisions of the Agreement.

BE IT FURTHER RESOLVED that this resolution shall have force and effect of a continuing agreement between the Bank and this municipality, on which agreement the Bank may rely and this municipality shall be bound until the Bank is otherwise advised in writing by one of the above-named officers of this municipality.

I, the Town Clerk of the ***(Town of Kittery)*** certify that the above resolution was approved by a majority of the Town Council on the ***13th day of April , 2015.***

Attest:

Maryann Place, Kittery Town Clerk

Town of Kittery

Cardholder	Credit Line
Bruce Kerns	\$1,500.00
Maryann Place	\$1,500.00
George Kathios	\$5,000.00
Allyn Hutton	\$3,000.00
Michael Roberge	\$1,000.00
David Foster	\$1,000.00
Theodor Short	\$1,500.00
Jane Durgin	\$1,000.00
Marilyn Woodside	\$1,000.00
Steven Stilphen	\$1,000.00
Cindy Furbish	\$1,000.00
Norman Albert	\$1,000.00
Nancy Puff	\$1,500.00
Maury Hepner	\$1,000.00
Janice Grady	\$5,500.00
David O'Brien	\$1,500.00
Anne Ellis	\$1,000.00
	\$30,000.00

Maryann Place

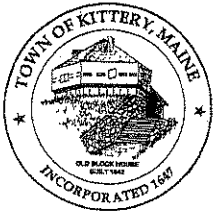
From: L Perkins [lperkins001@hotmail.com]
Sent: Wednesday, March 11, 2015 3:21 PM
To: Maryann Place; Nancy Colbert Puff
Cc: Jennifer; Norman Albert
Subject: Request to Town Council

The Rice Public Library would like to use the Fort Foster facility (baseball field) on Friday, June 26, 2015 from 8:00 to 10:00 p.m. to show an outdoor movie for the opening celebration of our Summer Reading Program.

For the past two years we have used Fort Foster for this purpose, but at an earlier start time (leaving by 8:00 p.m.). The company we utilize, however, has discontinued the availability of their Daylight Movie Screen, and there is no other company that offers one in this area. Therefore, we need to show the movie at a later start time when it is dark. If possible, we would like to use Fort Foster after the park has closed. Thank you for your consideration.

Lee Perkins MLIS
Director Rice Public Library
8 Wentworth Street
Kittery , ME 03904
207-439-1553 Ext #6
Fax # 207-439-1765

Lee Perkins MLIS
Director Rice Public Library
8 Wentworth Street
Kittery , ME 03904
207-439-1553 Ext #6
Fax # 207-439-1765
www.rice.lib.me.us



OFFICE OF THE TOWN CLERK
TOWN OF KITTERY, MAINE

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 439-0452 Fax: (207) 439-6806
website: www.kittery.org

RECEIVED
MAY 21 2014

BB 4:15 P.M.

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: PETER A. WHITMAN

RESIDENCE: 5 SEA OAKS LANE, KT, ME 03905

MAILING (if different) _____

E-MAIL ADDRESS: PETERWHITMAN1@GMAIL.COM PHONE #: (Home) _____ (Work) 603-944-1222 (C)

Please circle your choices and list in order of priority by marking 1,2,3, etc.:

Board of Appeals
Conservation Commission
Economic Development Comm.
Recycling Scholarship Selection Comm.
Parks Commission
Port Authority
Personnel Board

Board of Assessment Review
Mary Safford Wildes Trust
Shellfish Conservation Committee
Community Center Bldg. Comm./Rec. Comm.
Open Space Committee
Planning Board
Other _____

EDUCATION/TRAINING: UNH-WHITTEMORE SCHOOL OF BUSINESS - COM LAUDE

RELATED EXPERIENCE (Including other Boards and Commissions) EXTENSIVE EXPERIENCE
WORKING ON SIGNIFICANT REAL ESTATE DEVELOPMENT PROJECTS.

PRESENT EMPLOYMENT: RE DEVELOPMENT & SALES

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY?: ☒ Yes ☐ No

ANY KNOWN CONFLICT OF INTEREST: NO

REASON FOR APPLICATION TO THIS BOARD: GIVING BACK

I HAVE ___/HAVE NOT ___ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

P.A. Whitman
SIGNATURE OF APPLICANT

5/20/14
DATE

EB-5 Immigrant Investor Program

The EB-5 program was created in 1990 to stimulate the economy through job creation and capital investment by foreign investors. A pilot program for Regional Centers was created in 1992; it has been reauthorized ever since. The program is run by U.S. Citizenship and Immigration Services (USCIS) under the Department of Homeland Security¹.

To qualify for EB-5 status and become eligible for eventual permanent resident status, investors must invest at least \$1,000,000 and show USCIS how they will create or preserve 10 jobs full-time² jobs within 2 years. If preserving jobs, they must be in a “troubled business” as defined by USCIS. A targeted employment area (TEA) requires only \$500,000 investment if in a rural area³ or a high unemployment area⁴. Additionally, investment capital cannot be borrowed.

There are 2 types of EB-5 investments: Individual and Regional Center investments. **Individual** investments require \$1,000,000 and 10 directly created jobs.

Regional Centers are defined by USCIS as “any economic unit, public or private, engaged in the promotion of economic growth, improved regional productivity, job creation, and increased domestic capital investment.”

- Foreign investors must expose their investment to the enterprise, but don’t need to take an active role enterprise.
- Jobs created can be both direct and indirect employment.
- Regional Centers can pool qualifying investments to fund larger investment projects.
- Regional Centers must operate in a contiguous geographic area.

There are over 126 Regional Centers across the U.S. in 32 states, DC, and Guam; in Maine we have 1 Regional Center: USA Lifestyles/Saddleback. Vermont’s use of EB-5 is a good point of reference to compare to Maine’s use of the program.

In looking at a Regional Center project (or Individual Investment project) in York County, there is much to consider:

- What are the startup costs and who pays for them?
- Who will run the Regional Center (keeping in mind the costs of daily operations and legal costs to maintain USCIS compliance)?
- What projects will be funded?

Possible connection: Maine International Trade Center (MITC) at 541-7400 or info@mitc.com.

(Prepared: February 12, 2015)

¹ See <http://www.uscis.gov/eb-5> for specific definitions

² Full time is defined as a minimum of 35 hours a week

³ Any area outside a metropolitan statistical area (as designated by the Office of Management and Budget) or outside the boundary of any city or town having a population of 20,000 or more according to the decennial census.

⁴ Any area at the time of investment experiencing unemployment of at least 150% of the national average rate.

Source: **Cara Pavlak, Constituent Services Representative | Senator Angus S. King, Jr., Maine**

Office: 383 US Route 1, Suite 1C | Scarborough, ME 04074

Mailing Address: 383 US Route 1, Box 4 | Scarborough, ME 04074

Tel: 207-883-1588 | Fax: 207-883-1733 | cara_pavlak@king.senate.gov www.king.senate.gov

EB-5 Program

Question and Answers

Q. What is the purpose of the EB-5 Program?

A. *To bring new immigrant investment capital into the United States that will provide support for the creation of new or restructured commercial enterprises and create jobs.*

Q. What are the advantages and disadvantages to the immigrant?

A. *The clear advantage is the immigrant and their immediate family receives a five year green card status with the goal of obtaining U.S. Citizenship. The disadvantage is that their capital must be pledged and is at risk, both in terms of return on investment and, in the case of no job creation (a minimum of 10 new jobs) they will lose their green card status.*

Q. What is the process for an immigrant investor to receive EB-5 status?

A. *The immigrant investor applies through United States Citizenship and Immigration Services (USCIS), by filling out an I-526. Once the I-526 is approved, the investor then applies for conditional permanent residence and must demonstrate that the investment is made and that 10 jobs are created or going to be created. This is form I-829.*

Q. What is the minimum investment in Southern Maine?

A. *Because of EB-5 population and unemployment rules, the minimum investment must be \$1,000,000.*

Q. What kind of commercial enterprise can be invested in and what must be done to monitor the process?

A. *Any type of new commercial enterprise, in generally any kind of ownership format, or for the purchase of an existing commercial enterprise that is restructured or organized, results in a 40% growth in the company. In monitoring this activity to insure green card status, there must evidence of the establishment of the enterprise (e.g. articles of incorporation, sufficient capital), that there is evidence that the funds were actually invested, that a formal security agreement is in place, and that a management program is in place demonstrating how the immigrant investor is to be involved in the decision making process within the company.*

Q. What is an EB-5 regional center and is it necessary to receive investor funding?

A. *While EB-5 funding can go directly to a new commercial enterprise, because of the risks and complicated process, more than 70% of all funds go directly through regional centers. Regional centers are created through application to USCIS. They may be a private or public entity committed to economic development and promotion, representing geographic areas that are contiguous to one another.*

Q. How does the commercial enterprise go about demonstrating that jobs can be and are finally created?

A. *The regional center is required to show that the enterprise can create 10 jobs per investment (e.g. if it is 2 investments of \$1,000,000 each, there must be 20 jobs created). Prior to making the*

investment, the regional center will provide, with econometric evidence, that the new enterprise (by The North American Industry Classification System (NAICS)), will create the new jobs or demonstrate how indirect jobs will be created as part of the investment. In addition to the analysis, a comprehensive business plan must also be established that shows how and when the jobs are to be created over a two year period. Finally, relevant tax records must demonstrate the jobs were in fact created.

Q. Will the investor get their money back after the five year period or when citizenship status is created?

A. *While the primary purpose of the immigrant investor is to achieve citizenship, the investor expects to get back their initial investment plus a modest rate of return. While some investors may not be concerned about that rate of return, the inability of the regional center or the commercial enterprise to demonstrate a return will make it highly unlikely that there will be future EB-5 investors in your region.*

Q. What is the cost to establish and run a center?

A. *It costs roughly \$100,000 to set up the center through the application and legal process. It is estimated that it can cost another \$100,000-150,000 to operate the center (staff, securities oversight, economic analysis). However, the immigrant investor can be charged the costs related to their investment such that the operation costs can eventually be recovered. An application currently takes up to 14 months to process.*

Q. Why does it make sense for the county, in conjunction with the Saco Biddeford Development Corporation, to spearhead the regional center application?

A. *The EB 5 rules require that a regional center "operate in a contiguous geographic area". Following the Franklin County model, York County fulfills that role better than any other existing organization, while still representing town and county interests. The role of the development corporation, in terms of staffing and overseeing the program is ideal because of the unique nature in which the investment is made by the immigrant (as a securities investment) and the need to have someone oversee the daily operations of the center and maintain USCIS compliance.*

Note: This document was created by using a slide show developed and presented by Attorney George D. Hepner, III, a specialist in the EB-5 world, and was supplemented with additional internet research.

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Money & Ethics

Should Rich Immigrants Be Able to "Buy" Permanent Visas?



U.S. immigration policy should tilt toward admitting people who actually want to work in this country. An immigrant's wealth shouldn't by itself confer priority for citizenship.

By Knight Kiplinger, From *Kiplinger's Personal Finance*, May 2015

Follow [@KnightKiplinger](#)

Q. I hear that thousands of wealthy foreign families, mostly Chinese, are allowed to gain permanent residency in the U.S. each year by investing \$500,000 each in a new American business venture that creates at least 10 new jobs. Do you think this is ethical?

See Also: 7 Self-Made Immigrant Millionaires

A. I have deep misgivings about the EB-5 visa program you're referring to, and not just because it has attracted fraudulent promoters.

U.S. immigration policy, which is flawed in many ways, should tilt toward admitting people who actually want to work in this country, at jobs with shortages at both the low and high ends of the labor market, ranging from agriculture to high tech. An immigrant's wealth shouldn't by itself confer priority for citizenship.

Advertisement

Supporters of the EB-5 program argue that the foreign capital it attracts—an estimated \$1.8 billion annually in recent years, \$6.8 billion total since 1992—has created 49,000 new jobs in rural and high-unemployment urban communities, which are the intended beneficiaries of the program.

But claims of robust job creation have been disputed by impartial studies, and the dynamic American economy attracts plenty of foreign investors even without the offer of permanent residency.

What's more, most of the EB-5 investment has been made in just one business sector: commercial real estate, such as hotels, offices and stores. And loopholes in the definition of an economically distressed place have led to EB-5 certification of ritzy realty projects in affluent areas of Los Angeles, New York City and Washington, D.C., which have no trouble attracting conventional capital. (Investors of \$1 million don't have to meet the depressed-locale requirement that applies to \$500,000 investors.)

Of the 10,000-plus wealthy visa applicants approved in 2014 (including their spouses and unmarried children under 21), about 85% were from China. It appears that these immigrants are much less interested in an investment return—which is often very meager—than in the prospect that their children can legally remain in the U.S., not just for college but forever after.

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- [What Is Your Take on These Ethical Dilemmas?](#)

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This page printed from: <http://www.kiplinger.com/article/investing/T008-C013-S002-should-rich-immigrants-buy-permanent-visas.html>

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EB-5 Regional Center Program Summary

Congress created the EB-5 program in 1990 to benefit the U.S. economy by attracting investments from qualified foreign investors. Under the program, each investor is required to demonstrate that at least 10 new jobs were created or saved as a result of the EB-5 investment, which must be a minimum of \$1 million, or \$500,000 if the funds are invested in certain high-unemployment or rural areas.

In 1992, Congress enhanced the economic impact of the EB-5 program by permitting the designation of Regional Centers to pool EB-5 capital from multiple foreign investors for investment in USCIS-approved economic development projects within a defined geographic region. Today, 95 percent of all EB-5 capital is raised and invested by Regional Centers.

What is a EB-5 Regional Center?

An EB-5 Regional Center is an organization, designated and regulated by USCIS, which facilitates investment in job-creating economic development projects by pooling capital raised under the EB-5 immigrant investor program. Regional centers can be publicly owned, (e.g. by a city, state, or regional economic development agency), privately owned, or be a public-private partnership.

Regional Centers maximize the program's job creation benefits by facilitating the investment of significant amounts of capital in large-scale projects often in coordination with regional economic development agencies which use the EB-5 funds to leverage additional capital.

Regional Centers use economic analysis models, including those developed by the U.S. Department of Commerce, to demonstrate that job creation targets required by law have been achieved. For investments made through Regional Centers, at least 10 direct, indirect or induced jobs must be created.

All investment offerings made by EB-5 Regional Centers are subject to U.S. securities laws, enforced by state securities regulators and the U.S. Securities & Exchange Commission.

What do Regional Centers do?

- Identify investment opportunities that will create jobs in local communities, often in partnership with economic development agencies.
- Assist in marketing those investment opportunities to investors from around the world.
- Ensure that the investment offering complies with federal and state securities laws and SEC regulations as well as specific EB-5 requirements.

Why is the EB-5 Investment Program Important?

A comprehensive peer-reviewed economic study found that during fiscal year 2012, investments made through the EB-5 program contributed \$3.39 billion to U.S. GDP and supported over 42,000 U.S. jobs. This is more than a 100 percent increase from the average annual impact result reported in 2011. And, these jobs were created at no cost to taxpayers. The Congressional Budget Office has scored the program as revenue neutral, with administrative costs paid for by applicant fees.

More than 25 countries, including Australia and the United Kingdom, use similar programs to attract foreign investments. The American program is more stringent than many others, requiring substantial risk for investors in terms of both their financial investment and immigration status.

- Investments made through the U.S. EB-5 program must be “at risk” in the same way that investments in stocks or equity funds carry an inherent risk. There is no guaranteed financial return.
- If their application is approved by USCIS, EB-5 investors receive a conditional visa that is valid for two years. In order to receive a permanent visa, these investors must demonstrate that the legally required economic benefits flowing from their investments have been achieved.

Annually, the EB-5 Program accounts for less than 1% of the visas issued by the U.S. Throughout the process, EB-5 investors are subject to the same background checks and national security screenings as applicants in any other visa category, and their ability to eventually apply for citizenship is subject to the same criteria as other visa holders. Like any other investment vehicle, EB-5 investment funds are subject to U.S. securities and anti-fraud laws and regulations.

Examples of Successful EB-5 Regional Center Projects

Approximately 95 percent of all capital raised through the EB-5 economic development program is raised in affiliation with IIUSA’s members. These include Regional Centers that are publicly owned and operated by state economic development agencies, public-private partnerships, as well as private sector investment companies.

Capital investments made by EB-5 Regional Centers have supported successful economic development projects, including:

- Redevelopment of a closed Air Force base in Southern California into a vital commercial area including a distribution center and regional airport
- Development of assisted and retirement living communities in Washington State, creating 800 jobs and serving approximately 130 seniors
- The transformation of the a closed Navy yard in Philadelphia into a dynamic, multi-use development now home to 130 companies and 10,000 employees
- Restoration of the historic “Alaska Club” building in Seattle, creating a modern hotel that employs almost 100 people and serving over 100,000 hotel guests annually
- Expansion of a one season ski-resort in Vermont into a thriving four season vacation destination
- Rehabilitation of a 100 year old building into a hotel that created over 161 jobs while kick-starting the revitalization of an historic Dallas neighborhood

Support for the EB-5 Regional Center Program

The EB-5 Regional Center program is supported by mayors and local economic development officials who see the value of the program first-hand.

- The U.S. Conference of Mayors recently endorsed permanent authorization of the regional center program, noting that EB-5 has become a vital source of urban redevelopment funds.

- Dallas Mayor Michael Rawlings said, “The EB-5 Program enables regional centers to be a key economic driver in their communities, creating desperately needed jobs in a tough economic environment.”
- Mark Jaffe, president of the Greater New York Chamber of Commerce, has called EB-5 “a common sense job creator that is straightforward with no cost to U.S. taxpayers,” and cited the program as “an important ingredient” in the success of “large-scale, public/private real estate projects that create much needed jobs in areas of high unemployment.”

EB-5 Regional Center Program - Frequently Asked Questions (FAQs)

How are EB-5 investments affiliated with Regional Centers structured?

EB-5 investments that are affiliated with EB-5 Regional Centers are made through private placements - the sale of securities to a relatively small number of select investors. Like all private placements, which are used by companies to raise capital in a number of contexts, EB-5 private placements are governed by federal and state securities laws and regulations.

A private placement memorandum is developed that details the investment offering, including detailed explanations of the project that will be funded along with disclosures of risk and material information consistent with all applicable federal and state laws. The economics of the project related to EB-5 specifically – the expected job creation – are also detailed in the memorandum. In some cases, the issuer of the private placement memorandum is an EB-5 Regional Center itself. In other situations, the issuer is business entity that will be receiving the investment funds and is affiliated with a Regional Center.

What risks do investors face in EB-5 regional center investments?

By law, EB-5 investments must be “at risk” in the same way that any equity, stock or other type of investment carries inherent risk. Regional centers, like other entities that market investment opportunities, cannot guarantee a return on investment. Regional Centers also cannot guarantee return of the investment principal to the investor.

What kind of financial commitment do EB-5 investors make?

By law, an EB-5 investor is required to invest a minimum of \$1 million, unless the investment is located in a Targeted Employment Area (TEA)—a rural area or area of high-unemployment designated by USCIS. Regional Centers funding projects in TEA’s can accept a minimum of \$500,000 from each EB-5 investor.

What risk do companies have in accepting EB-5 investments?

Companies bear no additional risk for EB-5 investment. They interact with the money as any other equity or financing investment, albeit often at a lower cost.

Are EB-5 regional center financing options cheaper for companies than other sources of capital?

Yes. In many instances, EB-5 funding is a lower-cost form of capital than alternatives because investor demand for return on their investment is often lower for EB-5 capital than other sources of capital. In addition, securing EB-5 capital increases the overall liquidity of a business or project which, in turn, reduces the cost of acquiring capital from other sources.

How do EB-5 regional centers help communities?

EB-5 Regional Centers facilitate direct investment in projects that meet the job creation and economic development goals of designated geographic areas. Regional Centers pool investments made by multiple EB-5 investors and deploy that capital to large-scale projects, often in coordination with regional economic development agencies.

Source: https://iiusa.org/en/eb-5-regional-center-investment-program/?gclid=Cj0KEQIAu_GmBRDhtK-kzqKcuJwBEiQAJvB8ny2GUpW5W8nD-XswYeJoB1HUgg57Ir22Mxj8Z1kNrQaAhC68P8HAQ

Accessed on 02 12 15

<https://www.youtube.com/watch?v=CLe8QRfmWiI>

COUNTY TAX ASSESSMENT, COUNTY OF YORK MAINE

MUNICIPALITY	2012	FY 13 (6 Mo)	FY 14	FY 15	FY 16	DIFFERENCE
					MANAGER'S PROPOSED	FY16-FY15
ACTON	\$314,056.61	\$149,626.69	\$298,329.15	\$290,079.13	\$289,049.19	(\$1,029.94)
ALFRED	\$152,817.96	\$72,897.89	\$145,345.50	\$140,541.79	\$142,168.89	\$1,627.10
ARUNDEL	\$225,246.74	\$114,374.04	\$228,041.60	\$228,748.28	\$231,768.35	\$3,020.07
BERWICK	\$319,309.39	\$160,400.25	\$319,809.74	\$322,812.99	\$317,593.18	(\$5,219.81)
BIDDEFORD	\$1,303,501.45	\$633,621.11	\$1,263,328.42	\$1,250,633.09	\$1,228,162.87	(\$22,470.22)
BUXTON	\$396,043.28	\$200,313.61	\$399,389.91	\$383,588.56	\$390,248.09	\$6,659.53
CORNISH	\$75,353.01	\$36,704.80	\$73,182.88	\$71,714.63	\$68,659.86	(\$3,054.77)
DAYTON	\$112,582.76	\$55,319.97	\$110,298.24	\$107,002.77	\$108,610.42	\$1,607.65
ELIOT	\$448,192.00	\$229,121.49	\$456,827.72	\$459,384.51	\$459,954.93	\$570.42
HOLLIS	\$222,024.67	\$111,552.72	\$222,416.39	\$227,582.18	\$224,907.88	(\$2,674.30)
KENNEBUNK	\$1,152,524.67	\$580,182.02	\$1,156,780.33	\$1,157,928.82	\$1,189,810.33	\$31,881.51
KENNEBUNKPORT	\$975,744.29	\$500,784.03	\$998,474.78	\$1,017,525.86	\$1,009,288.90	(\$8,236.96)
KITTERY	\$817,321.56	\$411,608.24	\$820,674.03	\$820,456.40	\$825,791.85	\$5,335.45
LEBANON	\$260,554.08	\$130,762.58	\$260,717.46	\$265,841.09	\$255,325.41	(\$10,515.68)
LIMERICK	\$154,794.52	\$78,595.85	\$156,706.22	\$154,146.19	\$152,142.75	(\$2,003.44)
LIMINGTON	\$170,309.17	\$84,819.34	\$169,114.77	\$166,445.67	\$165,009.59	(\$1,436.08)
LYMAN	\$256,303.12	\$123,294.38	\$245,827.19	\$247,100.33	\$245,434.20	(\$1,666.13)
NEWFIELD	\$129,397.06	\$65,083.94	\$129,765.87	\$125,826.82	\$125,389.65	(\$437.17)
NORTH BERWICK	\$315,220.88	\$160,261.95	\$319,533.99	\$320,425.28	\$320,320.83	(\$104.45)
OGUNQUIT	\$694,504.01	\$351,876.50	\$701,579.51	\$697,544.81	\$718,311.07	\$20,766.26
OLD ORCHARD BEACH	\$816,996.65	\$403,033.64	\$803,577.80	\$808,267.97	\$823,367.26	\$15,099.29
PARSONSFIELD	\$112,609.83	\$53,107.17	\$105,886.31	\$103,920.96	\$99,959.06	(\$3,961.90)
SACO	\$1,100,294.72	\$560,308.32	\$1,117,155.68	\$1,111,201.87	\$1,125,283.29	\$14,081.42
SANFORD	\$791,517.96	\$390,558.99	\$778,705.55	\$765,011.53	\$736,192.39	(\$28,819.14)
SHAPLEIGH	\$271,817.77	\$131,620.04	\$262,427.08	\$253,319.49	\$259,513.33	\$6,193.84
SOUTH BERWICK	\$363,010.34	\$180,107.99	\$359,103.48	\$359,211.70	\$353,052.74	(\$6,158.96)
WATERBORO	\$387,568.44	\$193,412.45	\$385,630.21	\$384,338.19	\$377,243.49	(\$7,094.70)
WELLS	\$1,521,816.68	\$774,700.86	\$1,544,616.50	\$1,540,101.42	\$1,616,151.68	\$76,050.26
YORK	\$2,188,134.39	\$1,086,733.15	\$2,166,753.70	\$2,157,685.67	\$2,186,039.53	\$28,353.86
TOTAL(S)	\$16,049,568.00	\$8,024,784.00	\$16,000,000.00	\$15,938,388.00	\$16,044,751.01	\$106,363.01

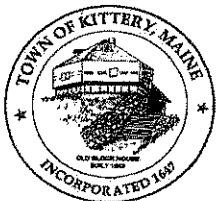
Prepared by V. Ridlon, Finance Director, County of York

COUNTY TAX ASSESSMENT, COUNTY OF YORK MAINE

MUNICIPALITY	2012	FY 13 (6 Mo)	FY 14	FY 15	FY 16 MANAGER'S PROPOSED PLUS \$100,000	DIFFERENCE
ACTON	\$314,056.61	\$149,626.69	\$298,329.15	\$290,079.13	\$290,850.71	\$771.58
ALFRED	\$152,817.96	\$72,897.89	\$145,345.50	\$140,541.79	\$143,054.97	\$2,513.18
ARUNDEL	\$225,246.74	\$114,374.04	\$228,041.60	\$228,748.28	\$233,212.86	\$4,464.58
BERWICK	\$319,309.39	\$160,400.25	\$319,809.74	\$322,812.99	\$319,572.60	(\$3,240.39)
BIDDEFORD	\$1,303,501.45	\$633,621.11	\$1,263,328.42	\$1,250,633.09	\$1,235,817.48	(\$14,815.61)
BUXTON	\$396,043.28	\$200,313.61	\$399,389.91	\$383,588.56	\$392,680.34	\$9,091.78
CORNISH	\$75,353.01	\$36,704.80	\$73,182.88	\$71,714.63	\$69,087.79	(\$2,626.84)
DAYTON	\$112,582.76	\$55,319.97	\$110,298.24	\$107,002.77	\$109,287.34	\$2,284.57
ELIOT	\$448,192.00	\$229,121.49	\$456,827.72	\$459,384.51	\$462,821.63	\$3,437.12
HOLLIS	\$222,024.67	\$111,552.72	\$222,416.39	\$227,582.18	\$226,309.63	(\$1,272.55)
KENNEBUNK	\$1,152,524.67	\$580,182.02	\$1,156,780.33	\$1,157,928.82	\$1,197,225.90	\$39,297.08
KENNEBUNKPORT	\$975,744.29	\$500,784.03	\$998,474.78	\$1,017,525.86	\$1,015,579.37	(\$1,946.49)
KITTERY	\$817,321.56	\$411,608.24	\$820,674.03	\$820,456.40	\$830,938.65	\$10,482.25
LEBANON	\$260,554.08	\$130,762.58	\$260,717.46	\$265,841.09	\$256,916.74	(\$8,924.35)
LIMERICK	\$154,794.52	\$78,595.85	\$156,706.22	\$154,146.19	\$153,090.99	(\$1,055.20)
LIMINGTON	\$170,309.17	\$84,819.34	\$169,114.77	\$166,445.67	\$166,038.02	(\$407.65)
LYMAN	\$256,303.12	\$123,294.38	\$245,827.19	\$247,100.33	\$246,963.88	(\$136.45)
NEWFIELD	\$129,397.06	\$65,083.94	\$129,765.87	\$125,826.82	\$126,171.15	\$344.33
NORTH BERWICK	\$315,220.88	\$160,261.95	\$319,533.99	\$320,425.28	\$322,317.26	\$1,891.98
OGUNQUIT	\$694,504.01	\$351,876.50	\$701,579.51	\$697,544.81	\$722,787.99	\$25,243.18
OLD ORCHARD BEACH	\$816,996.65	\$403,033.64	\$803,577.80	\$808,267.97	\$828,498.96	\$20,230.99
PARSONSFIELD	\$112,609.83	\$53,107.17	\$105,886.31	\$103,920.96	\$100,582.06	(\$3,338.90)
SACO	\$1,100,294.72	\$560,308.32	\$1,117,155.68	\$1,111,201.87	\$1,132,296.69	\$21,094.82
SANFORD	\$791,517.96	\$390,558.99	\$778,705.55	\$765,011.53	\$740,780.76	(\$24,230.77)
SHAPLEIGH	\$271,817.77	\$131,620.04	\$262,427.08	\$253,319.49	\$261,130.76	\$7,811.27
SOUTH BERWICK	\$363,010.34	\$180,107.99	\$359,103.48	\$359,211.70	\$355,253.17	(\$3,958.53)
WATERBORO	\$387,568.44	\$193,412.45	\$385,630.21	\$384,338.19	\$379,594.69	(\$4,743.50)
WELLS	\$1,521,816.68	\$774,700.86	\$1,544,616.50	\$1,540,101.42	\$1,626,224.46	\$86,123.04
YORK	\$2,188,134.39	\$1,086,733.15	\$2,166,753.70	\$2,157,685.67	\$2,199,664.17	\$41,978.50
TOTAL(S)	\$16,049,568.00	\$8,024,784.00	\$16,000,000.00	\$15,938,388.00	\$16,144,751.02	\$206,363.02

Prepared by V. Ridlon, Finance Director, County of York

COUNTY OF YORK MAINE					STATE VALUATION		
MUNICIPALITY	2010	2011	2012	2013	2014	2015	DIFFERENCE 2015-2014
ACTON	\$633,200,000	\$589,050,000	\$579,950,000	\$540,950,000	\$522,400,000	\$524,550,000	\$2,150,000
ALFRED	\$294,950,000	\$284,100,000	\$282,200,000	\$263,550,000	\$253,100,000	\$258,000,000	\$4,900,000
ARUNDEL	\$449,900,000	\$429,150,000	\$415,950,000	\$413,500,000	\$411,950,000	\$420,600,000	\$8,650,000
BERWICK	\$609,200,000	\$597,850,000	\$589,650,000	\$579,900,000	\$581,350,000	\$576,350,000	-\$5,000,000
BIDDEFORD	\$2,513,900,000	\$2,446,300,000	\$2,407,100,000	\$2,290,750,000	\$2,252,250,000	\$2,228,800,000	-\$23,450,000
BUXTON	\$771,700,000	\$756,550,000	\$731,350,000	\$724,200,000	\$690,800,000	\$708,200,000	\$17,400,000
CORNISH	\$142,350,000	\$141,700,000	\$139,150,000	\$132,700,000	\$129,150,000	\$124,600,000	-\$4,550,000
DAYTON	\$213,200,000	\$208,700,000	\$207,900,000	\$200,000,000	\$192,700,000	\$197,100,000	\$4,400,000
ELIOT	\$888,050,000	\$867,750,000	\$827,650,000	\$828,350,000	\$827,300,000	\$834,700,000	\$7,400,000
HOLLIS	\$491,400,000	\$424,200,000	\$410,000,000	\$403,300,000	\$409,850,000	\$408,150,000	-\$1,700,000
KENNEBUNK	\$2,288,950,000	\$2,126,200,000	\$2,128,300,000	\$2,097,550,000	\$2,085,300,000	\$2,159,200,000	\$73,900,000
KENNEBUNKPORT	\$1,923,750,000	\$1,938,250,000	\$1,801,850,000	\$1,810,500,000	\$1,832,450,000	\$1,831,600,000	-\$850,000
KITTERY	\$1,701,400,000	\$1,608,850,000	\$1,509,300,000	\$1,488,100,000	\$1,477,550,000	\$1,498,600,000	\$21,050,000
LEBANON	\$526,600,000	\$483,300,000	\$481,150,000	\$472,750,000	\$478,750,000	\$463,350,000	-\$15,400,000
LIMERICK	\$318,350,000	\$309,200,000	\$285,850,000	\$284,150,000	\$277,600,000	\$276,100,000	-\$1,500,000
LIMINGTON	\$330,750,000	\$327,500,000	\$314,500,000	\$306,650,000	\$299,750,000	\$299,450,000	-\$300,000
LYMAN	\$512,450,000	\$502,350,000	\$473,300,000	\$445,750,000	\$445,000,000	\$445,400,000	\$400,000
NEWFIELD	\$280,000,000	\$257,200,000	\$238,950,000	\$235,300,000	\$226,600,000	\$227,550,000	\$950,000
NORTH BERWICK	\$606,550,000	\$598,850,000	\$582,100,000	\$579,400,000	\$577,050,000	\$581,300,000	\$4,250,000
OGUNQUIT	\$1,327,550,000	\$1,297,600,000	\$1,282,500,000	\$1,272,150,000	\$1,256,200,000	\$1,303,550,000	\$47,350,000
OLD ORCHARD BCH	\$1,533,750,000	\$1,531,150,000	\$1,508,700,000	\$1,457,100,000	\$1,455,600,000	\$1,494,200,000	\$38,600,000
PARSONSFIELD	\$227,250,000	\$214,600,000	\$207,950,000	\$192,000,000	\$187,150,000	\$181,400,000	-\$5,750,000
SACO	\$2,128,450,000	\$2,099,800,000	\$2,031,850,000	\$2,025,700,000	\$2,001,150,000	\$2,042,100,000	\$40,950,000
SANFORD	\$1,594,100,000	\$1,458,800,000	\$1,461,650,000	\$1,412,000,000	\$1,377,700,000	\$1,336,000,000	-\$41,700,000
SHAPLEIGH	\$520,600,000	\$502,400,000	\$501,950,000	\$475,850,000	\$456,200,000	\$470,950,000	\$14,750,000
SOUTH BERWICK	\$723,150,000	\$690,450,000	\$670,350,000	\$651,150,000	\$646,900,000	\$640,700,000	-\$6,200,000
WATERBORO	\$765,550,000	\$731,450,000	\$715,700,000	\$699,250,000	\$692,150,000	\$684,600,000	-\$7,550,000
WELLS	\$2,934,900,000	\$2,874,800,000	\$2,810,250,000	\$2,800,800,000	\$2,773,550,000	\$2,932,900,000	\$159,350,000
YORK	\$4,205,950,000	\$4,164,050,000	\$4,040,700,000	\$3,928,900,000	\$3,885,750,000	\$3,967,100,000	\$81,350,000
TOTAL(S)	\$31,457,900,000	\$30,462,150,000	\$29,637,800,000	\$29,012,250,000	\$28,703,250,000	\$29,117,100,000	\$413,850,000



TOWN OF KITTERY
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Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: April 13, 2015
From: Chris Di Matteo, Town Planner
Subject: Town Code, Title 5 Amendment – Re-adoption of Use of the Public Way.
Outdoor Seating in the Mixed Use- Kittery Foreside Zone
Councilor Sponsor: Jeffery Thomson, Town Council Chair
Enclosure 1: Code Amendment

EXECUTIVE SUMMARY

Amendment of the Town Code, Title 5 Businesses and Licenses, to allow for seasonal outdoor seating and tables in the public right-of-way in the Mixed Use- Kittery Foreside Zone.

STATEMENT OF NEED

Town Council adoption of the Town Code amendment is required to make permanent the code that has been extended yearly since 2012. The code expired on December 31, 2014. Town Council adoption will continue to improve Kittery Foreside's street-side presence and business vitality by enabling seasonal outdoor seating and tables in the public right-of-way where appropriate.

BACKGROUND

Town Council last adopted an amendment to extend the Public Way ordinance on May 20, 2014. Since 2012 property owners have taken advantage of the program with welcomed success. Most notable is AJ's Wood Grill Pizza that has provided outdoor seating and tables in Kittery Foreside.

The Planning Board is in support of having no sunset provision with this amendment.

There have been no reported issues with the use of the public way.

The code amendment in the proper form and format for passage is included. (encl) Note, proposal is not underlined as with new amendments since there are no new changes with the exception of removing the sunset provision. (Line 59)

FACTS BEARING ON THE EQUATION

(See above)

CURRENT SITUATION (STATUS WITH TOWN COUNCIL)

Need to schedule a public hearing prior to final Town Council action.

PROPOSED SOLUTION/RECOMMENDATION

**MOVE TO SCHEDULE A PUBLIC HEARING ON A TOWN CODE AMENDMENT TO TITLE 5
BUSINESSES AND LICENSES, SECTION 5.10 USE OF THE PUBLIC RIGHT-OF-WAY IN THE MIXED
USE- KITTERY FORESIDE ZONE.**

RATIONALE FOR THE PROPOSED SOLUTION (INCLUDING COSTS)

(See above)

Enclosure 1:

Town of Kittery, Maine Town Code Title 5 – Re-adopt Title 5.10 with no sunset provision

Chapter 5.10

5.10.1 Title. USE OF THE PUBLIC WAY

This chapter is known as the Use of the Public Way ordinance.

5.10.2 Intent and Purpose.

A. It is the purpose of this chapter to promote more attractive, communal, orderly and functional pedestrian-oriented streetscapes, including outdoor benches, seating, tables and chairs. Site furnishings shall be furnished and maintained by the business/property owners and merchants for public use and are not for the exclusive use of the patrons of a particular business.

B. In return for the privilege of use of the public way, merchants and business/property owners are expected to self-police themselves to provide and maintain said site furnishings according to their submitted sketch plan and approved Use of Public Way Permit.

C. This chapter is further intended to specifically prevent unsafe passage of pedestrians that could occur along sidewalks that are compromised by the use of site furnishings.

5.10.3 Definitions.

Terms, phrases and words in this chapter have the meaning given herein or, if not defined, are given their ordinary accepted meaning:

Public Way means the area between the street curb (or edge of street pavement if curb does not exist) and the property line. If a land title survey or other official documentation demonstrating the location of the property line is not provided, it will be assumed that the public way extends to the building façade.

Site furnishings means those elements and site amenities that are shown on the site plan that accompanies the Use of the Public Way permit and approved by the Code Enforcement Officer (CEO) and Town Planner. Such elements may include, but are not limited to: benches, tables, chairs, umbrellas, bicycle racks, and trash receptacles. Excluded elements include: vending and soda machines, refrigerated cabinets, ice machines, freezer chests and other like appliances. There will be no signage and/or advertising associated with the site furnishings unless as reviewed and approved by the CEO and Town Planner per Town Code Title 16, Chapter 8, Article X Signs.

Use of the Public Way Plan is the map identifying those properties the Town Council deems eligible to apply for a permit to use the Public Way, as defined within this Chapter, without prior Town Council approval.

Pedestrian Access Route (PAR) must be free of obstructions and, at a minimum, include the following:

1. Surfaces must be firm, stable, and slip resistant. Concrete or asphalt must be free of holes and depression. Gratings, access covers, and other appurtenances must not be located on curb ramps, landings, and gutters within the PAR;
2. Width clearance must be 4 feet minimum, with a continuous passing width of 5 feet;
3. Passing width at a 200-foot intervals must be 5 feet by 5 feet minimum;
4. Vertical clearance must be 7 feet in height

5.10.4 Applicability.

The regulations of this chapter apply only to those properties located in the Mixed Use - Kittery Foreside Zone, ~~and through calendar year 2014.~~

End